

# Statutes

ENACTED IN THE SESSION OF PARLIAMENT, 1922.

12 GEO. 5.

## CHAPTER 1.

### CONSOLIDATED FUND (No. 1) ACT, 1922.

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and twenty-two. [2nd March, 1922.]

## CHAPTER 2.

### CORONERS (EMERGENCY PROVISIONS CONTINUANCE) ACT, 1922.

An Act to continue temporarily the Coroners (Emergency Provisions) Act, 1917, and section seven of the Juries Act, 1918. [2nd March, 1922.]

Be it enacted, &c. :—

1. *Continuance of 7 & 8 Geo. 5, c. 19, and 8 & 9 Geo. 5, c. 23, s. 7.*—The Coroners (Emergency Provisions) Act, 1917, and section seven of the Juries Act, 1918, which are limited to expire on the twenty-eighth day of February, nineteen hundred and twenty-two, shall be continued until the thirty-first day of December, nineteen hundred and twenty-two, and shall then expire unless further continued.

2. *Short title.*—This Act may be cited as the Coroners (Emergency Provisions Continuance) Act, 1922.

## CHAPTER 3.

### CONSOLIDATED FUND (No. 2) Act, 1922.

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and twenty-one, one thousand nine hundred and twenty-two, and one thousand nine hundred and twenty-three. [29th March, 1922.]

## CHAPTER 4.

### IRISH FREE STATE (AGREEMENT) Act, 1922.

An Act to give the force of law to certain Articles of Agreement for a Treaty between Great Britain and Ireland, and to enable effect to be given thereto, and for other purposes incidental thereto or consequential thereon. [31st March, 1922.]

Be it enacted, &c. :—

1. *Provisions for giving the force of law to and carrying into effect Irish Agreement.*—(1) The Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Schedule to this Act shall have the force of law as from the date of the passing of this Act.

(2) For the purpose of giving effect to Article 17 of the said Agreement, Orders in Council may be made transferring to the Provisional Government established under that Article the powers and machinery therein referred to, and as soon as may be and not later than four months after the passing of this Act the Parliament of Southern Ireland shall be dissolved and such steps shall be taken as may be necessary for holding, in accordance with the law now in force with respect to the franchise number of members and method of election and holding of elections to that Parliament, an election of members for the constituencies which would have been entitled to elect members to that Parliament, and the members so elected shall constitute the House of the Parliament to which the Provisional Government shall be responsible, and that Parliament shall, as respects matters within the jurisdiction of the Provisional Government, have power to make laws in like manner as the Parliament of the Irish Free State when constituted. Any Order in Council under this section may contain such incidental, consequential, or supplemental provisions as may appear to be necessary or proper for the purpose of giving effect to the foregoing provisions of this section.

(3) Any Order in Council made under this Act shall be laid before both Houses of Parliament as soon as may be after it is made, and if an Address is presented to His Majesty by either of those Houses within twenty-one days on which that House has sat next after any such Order is laid before it, praying that any such Order may be annulled, His Majesty may thereupon by Order in Council annul the same, and the Order so annulled shall forthwith become void, but without prejudice to the validity of any proceedings which may in the meantime have been taken thereunder; and any Order in Council made under this Act shall, subject to the foregoing provisions of this sub-section, be of the same effect as if enacted in this Act, but may be revoked or amended by a subsequent Order in Council.

Provided that Orders in Council under this Act shall not be deemed to be Statutory Rules within the meaning of section one of the Rules Publication Act, 1893 [56 & 57 Vict., c. 66].

(4) No writ shall be issued after the passing of this Act for the election of a member to serve in the Commons House of Parliament for a constituency in Ireland other than a constituency in Northern Ireland.

(5) This Act shall not be deemed to be the Act of Parliament for the ratification of the said Articles of Agreement as from the passing whereof the month mentioned in Article 11 of the said Articles is to run.

2. *Short title.*—This Act may be cited as the Irish Free State (Agreement) Act, 1922.

## SCHEDULE.

### [Section 1.]

ARTICLES OF AGREEMENT FOR A TREATY BETWEEN GREAT BRITAIN AND IRELAND DATED THE SIXTH DAY OF DECEMBER, NINETEEN HUNDRED AND TWENTY-ONE.

1. Ireland shall have the same constitutional status in the Community of Nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa, with a Parliament having powers to make laws for the peace, order and good government of Ireland and an Executive responsible to that Parliament, and shall be styled and known as the Irish Free State.

2. Subject to the provisions hereinafter set out the position of the Irish Free State in relation to the Imperial Parliament and Government and otherwise shall be that of the Dominion of Canada, and the law, practice and constitutional usage governing the relationship of the Crown or the representative of the Crown and of the Imperial Parliament to the Dominion of Canada shall govern their relationship to the Irish Free State.

3. The representative of the Crown in Ireland shall be appointed in like manner as the Governor-General of Canada, and in accordance with the practice observed in the making of such appointments.

4. The oath to be taken by Members of the Parliament of the Irish Free State shall be in the following form :—

I . . . do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established and that I will be faithful to H.M. King George V, his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

5. The Irish Free State shall assume liability for the service of the Public Debt of the United Kingdom as existing at the date hereof and towards the payment of war pensions as existing at that date in such proportion as may be fair and equitable, having regard to any just claims on the part of Ireland by way of set-off or counterclaim, the amount of such sums being determined in default of agreement by the arbitration of one or more independent persons being citizens of the British Empire.

6. Until an arrangement has been made between the British and Irish Governments whereby the Irish Free State undertakes her own coastal defence, the defence by sea of Great Britain and Ireland shall be undertaken by His Majesty's Imperial Forces, but this shall not prevent the construction or maintenance by the Government of the Irish Free State of such vessels as are necessary for the protection of the Revenue or the Fisheries.

The foregoing provisions of this article shall be reviewed at a conference of Representatives of the British and Irish Governments to be held at the expiration of five years from the date hereof with a view to the undertaking by Ireland of a share in her own coastal defence.

7. The Government of the Irish Free State shall afford to His Majesty's Imperial Forces :—

(a) In time of peace such harbour and other facilities as are indicated in the Annex hereto, or such other facilities as may from time to time be agreed between the British Government and the Government of the Irish Free State; and

(b) In time of war or of strained relations with a Foreign Power such harbour and other facilities as the British Government may require for the purposes of such defence as aforesaid.

8. With a view to securing the observance of the principle of international limitation of armaments, if the Government of the Irish Free State establishes and maintains a military defence force, the establishments thereof shall not exceed in size such proportion of the military establishments maintained in Great Britain as that which the population of Ireland bears to the population of Great Britain.

9. The ports of Great Britain and the Irish Free State shall be freely open to the ships of the other country on payment of the customary port and other dues.

10. The Government of the Irish Free State agrees to pay fair compensation on terms not less favourable than those accorded by the Act of 1920 to judges, officials, members of police forces, and other public servants who are discharged by it or who retire in consequence of the change of government effected in pursuance hereof.

Provided that this agreement shall not apply to members of the Auxiliary Police Force or to persons recruited in Great Britain for the Royal Irish Constabulary during the two years next preceding the date hereof. The British Government will assume responsibility for such compensation or pensions as may be payable to any of these excepted persons.

11. Until the expiration of one month from the passing of the Act of Parliament for the ratification of this instrument, the powers of the Parliament and the Government of the Irish Free State shall not be exercisable as respects Northern Ireland, and the provisions of the Government of Ireland Act, 1920, shall, so far as they relate to Northern Ireland, remain of full force and effect, and no election shall be held for the return of members to serve in the Parliament of the Irish Free State for constituencies in Northern Ireland, unless a resolution is passed by both Houses of the Parliament of Northern Ireland in favour of the holding of such elections before the end of the said month.

12. If before the expiration of the said month, an address is presented to His Majesty by both Houses of the Parliament of Northern Ireland to that effect, the powers of the Parliament and Government of the Irish Free State shall no longer extend to Northern Ireland, and the provisions of the Government of Ireland Act, 1920 (including those relating to the Council of Ireland) shall so far as they relate to Northern Ireland, continue to be of full force and effect, and this instrument shall have effect subject to the necessary modifications.

Provided that if such an address is so presented a Commission consisting of three persons, one to be appointed by the Government of the Irish Free State, one to be appointed by the Government of Northern Ireland and one who shall be Chairman to be appointed by the British Government shall determine in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions, the boundaries between Northern Ireland and the rest of Ireland, and for the purposes of the Government of Ireland Act, 1920, and of this instrument, the boundary of Northern Ireland shall be such as may be determined by such Commission.

13. For the purpose of the last foregoing Article, the powers of the Parliament of Southern Ireland under the Government of Ireland Act, 1920, to elect members of the Council of Ireland shall after the Parliament of the Irish Free State is constituted be exercised by that Parliament.

14. After the expiration of the said month, if no such address as is mentioned in Article 12 hereof is presented, the Parliament and Government of Northern Ireland shall continue to exercise as respects Northern Ireland the powers conferred on them by the Government of Ireland Act, 1920, but the Parliament and Government of the Irish Free State shall in Northern Ireland have in relation to matters in respect of which the Parliament of Northern Ireland has no power to make laws under that Act (including matters which under the said Act are within the jurisdiction of the Council of Ireland) the same powers as in the rest of Ireland subject to such other provisions as may be agreed in manner hereinafter appearing.

15. At any time after the date hereof the Government of Northern Ireland and the provisional Government of Southern Ireland hereinafter constituted may meet for the purpose of discussing the provisions subject to which the last foregoing Article is to operate in the event of no such address as is therein mentioned being presented, and those provisions may include:—

- (a) Safeguards with regard to patronage in Northern Ireland.
- (b) Safeguards with regard to the collection of revenue in Northern Ireland.
- (c) Safeguards with regard to import and export duties affecting the trade or industry of Northern Ireland.
- (d) Safeguards for minorities in Northern Ireland.
- (e) The settlement of the financial relations between Northern Ireland and the Irish Free State.
- (f) The establishment and powers of a local militia in Northern Ireland and the relation of the Defence Forces of the Irish Free State and of Northern Ireland respectively.

And if at any such meeting provisions are agreed to, the same shall have effect as if they were included amongst the provisions subject to which the powers of the Parliament and Government of the Irish Free State are to be exercisable in Northern Ireland under Article 14 hereof.

16. Neither the Parliament of the Irish Free State nor the Parliament of Northern Ireland shall make any law so as either directly or indirectly to endow any religion or prohibit or restrict the free exercise thereof or give any preference or impose any disability on account of religious belief or religious status or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at the school or make any discrimination as respects State aid between schools under the management of different religious denominations or divert from any religious denomination or any educational institution any of its property except for public utility purposes and on payment of compensation.

17. By way of provisional arrangement for the administration of Southern Ireland during the interval which must elapse between the date hereof and the constitution of a Parliament and Government of the Irish Free State in accordance therewith, steps shall be taken forthwith for summoning a meeting of members of Parliament elected for constituencies in Southern Ireland since the passing of the Government of Ireland Act, 1920, and for constituting a provisional Government, and the British Government shall

take the steps necessary to transfer to such provisional Government the powers and machinery requisite for the discharge of its duties, provided that every member of such provisional Government shall have signified in writing his or her acceptance of this instrument. But this arrangement shall not continue in force beyond the expiration of twelve months from the date hereof.

18. This instrument shall be submitted forthwith by His Majesty's Government for the approval of Parliament and by the Irish signatories to a meeting summoned for the purpose of the members elected to sit in the House of Commons of Southern Ireland, and if approved shall be ratified by the necessary legislation.

(Signed)

On behalf of the British  
Delegation,  
D. LLOYD GEORGE.  
AUSTEN CHAMBERLAIN.  
BIRKENHEAD.  
WINSTON S. CHURCHILL.  
L. WORTHINGTON-EVANS.  
HAMAR GREENWOOD.  
GORDON HEWART.

On behalf of the Irish  
Delegation,  
ART O'GRIOBHATHA.  
(ARTHUR GRIFFITH).  
MICHAEL O'COLLEAINE.  
RICHARD BARTUN.  
E. S. O'DUGAIN.  
SEORSA GHABHÁIN Uí  
DHUBHATHAIGH.

6th December 1921.

#### ANNEX.

##### 1. The following are the specific facilities required.

###### DOCKYARD PORT AT BEEHAVEN.

(a) Admiralty property and rights to be retained as at the date hereof. Harbour defences to remain in charge of British care and maintenance parties.

###### QUEENSTOWN.

(b) Harbour defences to remain in charge of British care and maintenance parties. Certain mooring buoys to be retained for use of His Majesty's ships.

###### BELFAST LOUGH.

(c) Harbour defences to remain in charge of British care and maintenance parties.

###### LOUGH SWILLY.

(d) Harbour defences to remain in charge of British care and maintenance parties.

###### AVIATION.

(e) Facilities in the neighbourhood of the above ports for coastal defence by air.

###### OIL FUEL STORAGE.

(f) Haulbowline - To be offered for sale to commercial companies under guarantee that purchasers shall maintain a certain minimum stock for Admiralty purposes.  
Rathmullen -

2. A convention shall be made between the British Government and the Government of the Irish Free State to give effect to the following conditions:—

(a) That submarine cables shall not be landed or wireless stations for communication with places outside Ireland be established except by agreement with the British Government; that the existing cable landing rights and wireless concessions shall not be withdrawn except by agreement with the British Government; and that the British Government shall be entitled to land additional submarine cables or establish additional wireless stations for communication with places outside Ireland:

(b) That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof and shall not be removed or added to except by agreement with the British Government:

(c) The war signal stations shall be closed down and left in charge of care and maintenance parties, the Government of the Irish Free State being offered the option of taking them over and working them for commercial purposes subject to Admiralty inspection and guaranteeing the upkeep of existing telegraphic communication therewith.

3. A Convention shall be made between the same Governments for the regulation of Civil Communication by Air.

D. L. G.  
A. C.  
B.  
W. S. C.

M. O. C.

#### CHAPTER 5.

##### PAWNBROKERS ACT, 1922.

An Act to increase the charges made by Pawnbrokers. [12th April, 1922.]

Be it enacted, &c. :—

1. Allowance of charge to pawnbrokers on loans not exceeding 40s.—Notwithstanding anything contained in the Pawnbrokers Act, 1872 [35 & 36 Vic. c. 93], a pawnbroker shall, in addition to the profit and charge authorised by that Act to be taken by a pawnbroker, be entitled in respect of any loan on a pledge made after the passing of this Act for any sum not exceeding

forty shillings to charge the pledger upon receipt of the pledge the sum of one halfpenny for each five shillings or part of five shillings lent by the pawnbroker.

2. *Pawnticket to state amount of charge.*—The pawnticket shall state the amount of the sum authorised by this Act to be charged in respect of the pledge as well as the profit and charge authorised by the Pawnbrokers Act, 1872.

3. *Restriction on extent.*—This Act shall not extend to Ireland.

4. *Short title.*—This Act may be cited as the Pawnbrokers Act, 1922, and the Pawnbrokers Act, 1872, and this Act may be cited together as the Pawnbrokers Acts, 1872 and 1922.

## CHAPTER 6.

### ARMY AND AIR FORCE (ANNUAL) ACT, 1922.

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army and Air Force. [12th April, 1922.]

### AMENDMENTS OF ARMY AND AIR FORCE ACTS.

#### PART I.—AMENDMENTS OF ARMY ACT.

4. *Amendment of s. 44.*—In section forty-four of the Army Act (which relates to the scale of punishment by courts martial):—

(1) At the end of paragraph (f) there shall be inserted the following words—

“or, in the case of an officer whose promotion depends upon length of service, forfeiture of all or any part of his service for the purposes of promotion.”

(2) The following proviso shall be inserted after proviso (2):—

“(2A) The Army Council may restore the whole or any part of any lost seniority or forfeited service in the case of an officer who may perform good or faithful service, or who may otherwise be deemed by the Army Council to merit such restoration.”

5. *Amendment of s. 46A.*—In subsection (2) of section forty-six A of the Army Act (which relates to the power to deal summarily with charges against officers, and shall hereafter be numbered 47) for paragraph (a) the following shall be substituted:—

“(a) Forfeiture of seniority of rank either in the army or in the corps to which the offender belongs, or in both, or, in the case of an officer whose promotion depends upon length of service, forfeiture of all or any part of his service for the purposes of promotion.”

6. *Amendment of s. 76.*—The following paragraph shall be inserted at the end of section seventy-six of the Army Act (which relates to the limit of an enlistment):—

“Provided that the Army Council in special cases may by order direct that where any boy is enlisted in a particular corps before attaining the age of eighteen, the period of twelve years shall be reckoned from the day on which he attains the age of eighteen years.”

#### PART II.—AMENDMENT OF AIR FORCE ACT.

7. *Amendment of s. 76.*—The following paragraph shall be inserted at the end of section seventy-six of the Air Force Act (which relates to the limit of an enlistment):—

“Provided that, where any boy is enlisted in the regular air force before attaining the age of eighteen, the period of twelve years shall be reckoned from the day on which he attains the age of eighteen years.”

#### PART III.—AMENDMENTS OF ARMY ACT APPLICABLE ALSO TO THE AIR FORCE ACT.

8. *Amendment of s. 87.*—Subsection (2) of section eighty-seven of the Army Act (which relates to the prolongation of service in certain cases) shall be amended as follows:—

After the words “foreign power” there shall be inserted the words “or while such soldier is on service beyond the seas.”

At the end of the subsection the words “unless at that time a proclamation calling out the army reserve or any part thereof is in force” shall be added.

9. *Amendment of s. 190.*—In subsection (8) of section one hundred and ninety of the Army Act (which provides for the definition of the expressions “regular forces” and “His Majesty’s regular forces”), for the words “in any part of the world” there shall be substituted the words “in every part of the world, or in any specified part of the world.”

10. *Application to Air Force.*—References in this Part of this Act to the Army Act shall be deemed to include references to the Air Force Act, and those provisions shall, in their application to the air force, have effect subject to any of the general modifications set out in Part I of the Second Schedule to the Air Force (Constitution) Act, 1917, which apply.

## CHAPTER 7.

### UNEMPLOYMENT INSURANCE ACT, 1922.

An Act to amalgamate the rates of contribution and the rates of benefit under the Unemployment Insurance Acts, 1920 and 1921, and the Unemployed Workers’ Dependents (Temporary Provision) Act, 1921,

otherwise to amend the Unemployment Insurance Acts, 1920 and 1921, and to repeal the Unemployed Workers’ Dependents (Temporary Provision) Act, 1921, and for purposes connected therewith.

[12th April, 1922.]

Be it enacted, &c. :—

1. *Amalgamation with unemployment benefit of grants payable under 11 & 12 Geo. 5, c. 62 in respect of certain dependants.*—(1) Where a person entitled to benefit is a married man, whose wife is living with him or is being maintained wholly or mainly by him, or being a widower or an unmarried man has residing with him any female person for the purpose of having the care of his dependent children and is maintaining that person or has and has had living with him as his wife any female person, or where the person entitled to benefit is a married woman who has a husband dependent on her, the weekly rate of benefit authorised by the Unemployment Insurance Acts, 1920 and 1921, shall be increased by a sum of five shillings, and, where the person so entitled has dependent children, the weekly rate of benefit shall be increased by one shilling in respect of each such child:

Provided that the additional sum of five shillings shall not be payable in respect of a wife or female person who is in receipt of benefit (including benefit under any special scheme), or who is in regular wage-earning employment otherwise than as having the care of the dependent children of the person entitled to benefit, or is engaged in any occupation ordinarily carried on for profit.

(2) If any question arises as to whether any addition ought to be made to the weekly rate of benefit in respect of any wife or other female person, or any husband or any child, that question shall be decided by the Minister.

(3) Paragraph 6 of the Second Schedule to the principal Act (which limits the powers of the Minister to prescribe rates and periods of benefit) shall have effect as though for the words from “the rate of benefit” to “for women” (where the last-mentioned words secondly occur), both inclusive, there were substituted the words “or reduce any of the rates of benefit for the time being in force by more than two shillings per week.”

(4) This section shall continue in operation so long as the rates of contribution fixed by this Act remain in force.

2. *Rates of contribution.*—The contributions payable under the Unemployment Insurance Acts, 1920 and 1921, in respect of employed persons by those persons and their employers shall, until the end of the deficiency period as defined in section sixteen of the Unemployment Insurance (No. 2) Act, 1921, be at the rates set out in Part I of the First Schedule to this Act, and the contribution to be made out of moneys provided by Parliament shall until the end of the said period be a contribution of such an amount as may be determined by the Treasury to be approximately equivalent, having regard to the estimated proportions in which contributions are payable in respect of men, women, boys and girls, to the sum which would be produced by weekly contributions paid in respect of insured and exempt persons at the rates specified in Part II of the said Schedule.

3. *Termination of second special period under 11 & 12 Geo. 5, c. 1, and new special periods.*—(1) The provisions of Act No. 1 of 1921 and Act No. 2 of 1921 shall have effect as though the second special period defined in section nine of Act No. 1 of 1921 (in this Act referred to as “the second special period”) were expressed to terminate on the fifth day of April nineteen hundred and twenty-two instead of on the second day of July nineteen hundred and twenty-two.

(2) For the purposes hereinafter in this Act mentioned there shall be two further special periods, that is to say, the period from the sixth day of April, nineteen hundred and twenty-two, to the first day of November, nineteen hundred and twenty-two (hereinafter referred to as “the third special period”), and the period from the second day of November, nineteen hundred and twenty-two, to the first day of July, nineteen hundred and twenty-three (hereinafter in this Act referred to as “the fourth special period”), the days above-mentioned being in all cases inclusive.

(3) Paragraph 2 of the Second Schedule to the principal Act (which as amended by section four of Act No. 1 of 1921, provides that after the second day of July, nineteen hundred and twenty-two, no person shall within any insurance year receive unemployment benefit for a period of more than twenty-six weeks, or such other period as may be prescribed) shall not operate during the third and fourth special periods.

4. *Provisions with respect to benefit in third and fourth special periods.*—(1) If it appears to the Minister that, having regard to all the circumstances of the case, it is expedient in the public interest that a person, notwithstanding that by reason that he does not satisfy the first statutory condition, or that he is disqualified under subsection (4) of section eight of the principal Act for receiving benefit, or (except as hereinafter otherwise expressly provided) by reason of the provisions of paragraph 3 of the Second Schedule to the principal Act, he may not be entitled to receive benefit, should be allowed to receive benefit in the third or the fourth special period, as the case may be, the Minister may, subject to the provisions of this section, authorise that person to receive benefit—

(a) during the third special period for periods not exceeding in the aggregate fifteen weeks;

(b) during the fourth special period for periods not exceeding in the aggregate twelve weeks and, subject to the provisions of paragraph 3 of the Second Schedule to the principal Act (which provides that a

person shall not receive more benefit than in the proportion of one week's benefit for every six contributions paid), for two further periods, neither of which shall exceed in the aggregate five weeks.

(2) When and so often as a person has received benefit under this section in the third special period for periods amounting in the aggregate to five weeks he shall cease to be qualified for the receipt of benefit in the third special period until the expiration of five weeks from the end of the last period in respect of which benefit was payable, and if at any time before the seventeenth day of April, nineteen hundred and twenty-two, the amount of benefit received by any person since the commencement of the second special period amounts in the aggregate to twenty-two weeks, he shall not be qualified for receiving any further benefit until the said seventeenth day of April.

(3) The Minister shall not authorise any person to receive benefit under this section unless that person proves—

(a) That he is normally employed in such employment as would make him an employed person within the meaning of the principal Act;

(b) That he is genuinely seeking, but unable to obtain whole-time employment;

(c) Either that not less than twenty contributions have been paid in respect of him under the principal Act, or that, having regard to the opportunities of employment in his normal employment, he has, since the thirty-first day of December, nineteen hundred and nineteen, been employed for a reasonable length of time in some occupation, employment in which would, if the principal Act had been in force during the whole period of his employment, have made him an employed person within the meaning of that Act, or, in the case of a person formerly engaged in war service, that he had been so employed before becoming so engaged, or had no opportunity owing to his youth of being so employed.

For the purposes of paragraph (c) aforesaid, the Minister may, in the case of any person formerly engaged in war service who has at the cost of funds administered by the Minister, or by the Minister of Pensions, undergone training for an occupation employment in which would have made him an employed person, treat that training as if it were employment which would, if the principal Act had been in force during the period of training, have made that person an employed person within the meaning of that Act.

(4) For the purpose of qualifying a person to receive, within either the third or the fourth special period, benefit up to the aggregate amount which may be authorised by the Minister under this Act, but for no other purpose, there shall be treated as having been paid in respect of him such number of contributions as are sufficient so to qualify him.

(5) Notwithstanding anything in the Unemployment Insurance Acts, 1920 and 1921, or in this Act, no person shall be entitled to receive benefit in the third special period for periods amounting in the aggregate to more than fifteen weeks, or in the fourth special period for periods amounting in the aggregate (except as hereinbefore otherwise expressly provided) to more than eighteen weeks.

(6) No person who holds, or who has at any time held, a certificate of exemption under section three of the principal Act shall be entitled to benefit under this section.

(7) If any question arises as to whether any person satisfies the requirements of this section, the question shall be decided by the Minister.

5. *Provision for temporary payment of benefit.*—In the case of a person who has satisfied the requirements for the receipt of benefit under the provisions of Act No. 1 of 1921, or under that Act as amended by Act No. 2 of 1921, the Minister may, during such period as may be necessary for the examination of his qualifications for the receipt of benefit under this Act, but not exceeding six weeks next after the passing of this Act, authorise payment of benefit to him under this Act as if he were a person who complied with the requirements thereof.

6. *Calculation of contributions.*—(1) For the purpose of determining the amount of benefit to which, having regard to the proportion of benefit to contributions fixed by paragraph 3 of the Second Schedule to the principal Act, any person is entitled—

(a) no account shall be taken during the fourth special period of any benefit which may have been received by that person between the seventh day of November, nineteen hundred and twenty, and the commencement of the fourth special period or, where the benefit to be granted is benefit for either of the two further periods of five weeks hereinbefore mentioned, of any benefit received up to the aggregate of twelve weeks within the fourth special period, and during the fourth special period, each of the total number of contributions actually paid in respect of him, after deducting from that total five contributions in respect of each week of benefit received by him before the eighth day of November, nineteen hundred and twenty, shall be treated as equivalent to two contributions; and

(b) after the termination of the fourth special period no account shall be taken of any benefit which may have been received by that person between the seventh day of November, nineteen hundred and twenty, and the termination of the fourth special period.

(2) Where for the purpose of qualifying a person to receive benefit either under Act No. 1 of 1921, Act No. 2 of 1921, or this Act, any contributions have from time to time been treated as having been paid in respect of him, no regard shall, for the purpose of determining the amount of benefit to which, having regard to the proportion aforesaid, he is entitled, be taken of any contributions actually paid in respect of him at any time except

in so far as the contributions so actually paid exceed for the time being the number of contributions which would have been required to entitle him to the amount of benefit received by him if no contributions had been treated as paid.

7. *Amendments as to Treasury advances.*—Section five of Act No. 1 of 1921 (which authorises the Treasury to make advances for the purpose of discharging the liabilities of the unemployment fund under the principal Act as amended by that Act) shall have effect as though the reference in that section to that Act included a reference to this Act, and during the deficiency period the limit on the amount of the advances under that section which may be outstanding at any time shall, for the purposes of the application of that section to Great Britain, be raised to thirty million pounds.

8. *Amendment of s. 12 (3) of principal Act.*—The proviso to subsection (3) of section twelve of the principal Act (which provides that such sum as the Treasury may direct, not exceeding one-tenth of the receipts of the unemployment fund, shall be applied as an appropriation in aid of the moneys provided by Parliament for the purpose of the salaries, remuneration, and expenses therein mentioned) shall have effect as though "one-eighth" was substituted for "one tenth."

9. *Amendment of s. 12 of 11 & 12 Geo. 5, c. 15.*—The following subsection shall be added to section twelve of Act No. 2 of 1921:—

(2) Where the rules of a society or other association authorise payments in respect of unemployment to be made at different rates or for different periods in the case of different classes of its members, the Minister may, if he is satisfied that the total provision for unemployment made by the rules is on the whole equivalent to the provision necessary to satisfy the requirements of the said proviso, make or continue, notwithstanding anything in the said proviso, an arrangement with that society or association under the said section seventeen: Provided that nothing in this section shall authorise an arrangement to be made or continued in respect of any class of members of a society or association in the case of which the payments authorised by the rules of the society or association do not exceed the provision represented by unemployment benefit at the rate payable under the principal Act as amended by any subsequent enactment.

10. *Amendments as to exempted employments.*—(1) Part II of the First Schedule to the principal Act shall have effect as though there were inserted therein after paragraph (b) the following new paragraph:—

(bb) Employment as a female professional nurse for the sick or as a female probationer undergoing training for employment as such a nurse.

(2) Where, as the result of the formation of any company or of the amalgamation of any companies, or of any other like process, any person, company or body of persons is succeeded by a company or body as employer in any business or undertaking, the Minister may, in determining for the purposes of the provisions of paragraph (d) of Part II of the First Schedule to the principal Act what is the normal practice of the employer or whether a person has completed three years' service in the employment, treat the normal practice of the old employer as being the normal practice of the new employer and treat any service under the old employer as being service under the new employer.

(3) Any certificate with respect to employment in the service of a railway company or joint committee of two or more such companies given by the Minister under paragraph (d) of Part II of the First Schedule to the principal Act, as amended by Act No. 1 of 1921, at any time before the first day of July, nineteen hundred and twenty-two, shall, if the conditions on which it was given so long remain unchanged continue in force for a period of five years from the first day of July, nineteen hundred and twenty-two, notwithstanding anything therein to the contrary.

(4) Subsection (1) of this section shall come into operation on the first day of July, nineteen hundred and twenty-two.

11. *Wife or husband of offender to be competent witness in legal proceedings.*—The wife or husband of a person charged with an offence under the principal Act as amended by any subsequent enactment may be called as a witness either for the prosecution or defence and without the consent of the person charged.

12. *Amendment of s. 9 (4) of 11 Geo. 5, c. 1.*—Subsection (4) of section nine of Act No. 1 of 1921 (which contains a saving with respect to the provision for unemployment benefit which may be required to be made by an association for the purposes of section seventeen of the principal Act) shall have effect as though the second day of July, nineteen hundred and twenty-three, were therein substituted for the third day of November, nineteen hundred and twenty-one, and as though the words "under the principal Act as originally enacted" were substituted for the words "if this Act had not passed" where those words secondly occur.

13. *Provision as to Unemployed Workers' Dependents Fund.*—(1) Any balance remaining in the unemployed workers' dependants fund on the date upon which this Act comes into force shall be apportioned equitably in accordance with directions to be given by the Minister between the unemployment fund and the several funds out of which benefits under any special schemes are payable.

(2) For the purposes of subsection (1) of section five of the Unemployed Workers' Dependents (Temporary Provision) Act, 1921, which authorises an amount equal to the expenses incurred by the Minister in carrying that

Act into effect to be paid out of that fund, and applied as an appropriation in aid, the expenses so incurred by the Minister shall be treated as having amounted to ten per centum of the receipts of the fund.

(3) Subject as hereinbefore in this section provided, the unemployed workers' dependants fund constituted under the Unemployed Workers' Dependants (Temporary Provision) Act, 1921 [11 & 12 Geo. 5, c. 62], shall be deemed to have been as from the date on which it came into existence part of the unemployment fund, and all contributions and sums which under that Act are payable into the unemployed workers' dependants fund and which are outstanding at the commencement of this Act shall be paid into the unemployment fund.

The Minister may give directions with respect to the adjustment of accounts between the unemployment fund and the unemployed workers' dependants fund.

**14. Amendment as to outdoor relief.**—(1) In any case in which an authority has granted outdoor relief to a person not in receipt of benefit, in excess of the amount which would have been granted if that person had been in receipt of benefit, the Minister may, if a claim by that person for benefit in respect of any part of the period during which relief has been so granted is subsequently allowed, treat the benefit allowed in respect of that person as reduced for the purposes of this section by an amount not exceeding such an amount as the authority certify to have been so paid in excess in respect of the period for which the benefit was allowed, and the Minister may pay to that authority the amount by which the benefit is treated as having been reduced as aforesaid, so, however, that the total charge on the unemployment fund shall not be greater than the amount of the benefit allowed.

(2) Section twenty-seven of the principal Act (which relates to outdoor relief) shall cease to have effect, and in determining whether outdoor relief shall or shall not be granted to a person in receipt of or entitled to receive benefit (including benefit under a special scheme), the authority having power to grant the relief shall take into account the amount of the benefit.

**15. Power to adapt special schemes to the provisions of this Act.**—For the purpose of securing in the case of a special scheme, that the like additions shall be made to the weekly rate of benefit payable to persons to whom the scheme applies as are under this Act to be made to the weekly rate of benefit payable to persons subject to the general provisions of the Unemployment Insurance Acts, 1920 and 1921, as amended by this Act and that the benefits under the scheme shall otherwise be not less favourable than those provided by the said general provisions (but for no other purposes), the Minister may, after consultation with the body charged with the administration of the scheme, notwithstanding anything in section eighteen of the principal Act, by order vary or amend the provisions of the scheme and any such order may provide for consequential amendments as to rates of contributions and otherwise.

**16. Construction, saving, short title, commencement, and duration.**—(1) In this Act, unless the context otherwise requires—

The expression "person formerly engaged in war service" means any person belonging to the classes of persons to whom the scheme in force at the commencement of Act No. 1 of 1921 for paying donation in respect of unemployment to discharged sailors, soldiers, and other persons applied, or would have applied if it had continued in force:

The expression "a dependent child" means any child under the age of fourteen years who is maintained wholly or mainly at the cost of the person entitled to benefit, or any child between the ages of fourteen and sixteen who is under full-time instruction in a day school and is so maintained as aforesaid:

The expression "child" includes a stepchild, an adopted child, and an illegitimate child:

The expression "local employment committee" means any local committee to which questions may be referred under subsection (5) of section thirteen of the principal Act:

The expression "the Minister" means the Minister of Labour:

The expression "benefit" means unemployment benefit under the Unemployment Insurance Acts, 1920 and 1921:

The expression "the principal Act" means the Unemployment Insurance Act, 1920, the expression "Act No. 1 of 1921" means the Unemployment Insurance Act, 1921, and the expression "Act No. 2 of 1921" means the Unemployment Insurance (No. 2) Act, 1921.

For the purposes of this Act, a husband shall be deemed to be dependent on his wife if he is prevented by physical or mental infirmity from supporting himself and is being maintained wholly or mainly by her.

(2) If any question arises as to whether any person is a person who was formerly engaged in war service within the meaning of this Act, that question shall be decided by the Minister.

(3) The decision of the Minister upon any question which, under this Act, is to be decided by him, shall be final and conclusive and not subject to appeal to any court.

The Minister may, if he sees fit, refer any such question to a local employment committee for their report and recommendation.

(4) Save as in this Act otherwise expressly provided, nothing therein contained (other than such parts thereof as provide for terminating the second special period and for repealing enactments) shall operate so as to deprive any person of, or to prevent any person from receiving, any benefit which he would have been entitled to receive if this Act had not been passed.

(5) Provision may be made by Order in Council under the Irish Free State (Agreement) Act, 1922 [12 Geo. 5, c. 4], for applying this Act, with or without modifications, to Ireland, exclusive of Northern Ireland, but, except in so far as it is so applied, this Act shall not apply to Ireland.

(6) The enactments set out in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(7) This Act may be cited as the Unemployment Insurance Act, 1922, and shall be construed as one with the Unemployment Insurance Acts, 1920 and 1921, and those Acts and this Act may be cited together as the Unemployment Insurance Acts, 1920 to 1922.

(8) This Act shall, except as therein otherwise expressly provided, be deemed to have come into operation on the sixth day of April, nineteen hundred and twenty-two.

## SCHEDULES.

### FIRST SCHEDULE.

[Section 2.]

#### PART I.

#### RATES OF CONTRIBUTIONS BY EMPLOYED PERSONS AND EMPLOYERS.

##### Ordinary Rates.

From the employed persons for each week:—

In the case of men — — — — — 9d.  
In the case of women — — — — — 7d.

From the employer for each week:—

In the case of an employed person being a man — 10d.  
In the case of an employed person being a woman — 8d.

##### Rates in the case of persons under eighteen.

From the employed person for each week:—

In the case of boys — — — — — 4½d.  
In the case of girls — — — — — 4d.

From the employer for each week:—

In the case of an employed person being a boy — 5d.  
In the case of an employed person being a girl — 4½d.

#### PART II.

#### RATES OF CONTRIBUTIONS OUT OF MONEYS PROVIDED BY PARLIAMENT.

##### Ordinary Rates.

For every contribution paid in respect of a man — 6½d.  
For every contribution paid in respect of a woman — 5½d.

##### Rates in the case of persons under eighteen.

For every contribution paid in respect of a boy — 3½d.  
For every contribution paid in respect of a girl — 3½d.

##### Rates in the case of exempt persons.

For every contribution paid in respect of a man — 2d.  
For every contribution paid in respect of a woman — 1½d.  
For every contribution paid in respect of a boy — 1d.  
For every contribution paid in respect of a girl — ½d.

### SECOND SCHEDULE.

[Section 16.]

#### ENACTMENTS REPEALED.

SESSION AND CHAPTER.	TITLE OR SHORT TITLE.	EXTENT OF REPEAL.
11 Geo. 5, c. 1 ...	Unemployment Insurance Act, 1921.	Subsection (2) of section two.
11 & 12 Geo. 5, c. 62.	Unemployed Workers' Dependants (Temporary Provision) Act, 1921.	The whole Act.

### CHAPTER 8.

#### DISEASES OF ANIMALS ACT, 1922.

An Act to remove temporarily the limit on the moneys provided by Parliament for the purposes of the Diseases of Animals Acts. [12th April, 1922.]

Be it enacted, &c.:—

**1. Provision of funds for purposes of the Diseases of Animals Acts.**—The limitation of one hundred and forty thousand pounds imposed by section eighteen of the Diseases of Animals Act, 1894 [57 & 58 Vict., c. 57], on the moneys which may be provided by Parliament towards defraying the costs in such section mentioned and be paid to the cattle pleuro-pneumonia account for Great Britain shall not apply to moneys so provided in the financial year ending on the thirty-first day of March, nineteen hundred and twenty-two.

**2. Short title.**—This Act may be cited as the Diseases of Animals Act, 1922.

### CHAPTER 9.

#### EAST INDIA LOANS (RAILWAYS AND IRRIGATION) ACT, 1922.

An Act to empower the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India and for other purposes relating thereto. [12th April, 1922.]

## CHAPTER 10.

## KENYA DIVORCES (VALIDITY) ACT, 1922.

An Act to make provision with respect to the validity of Decrees granted in the Kenya Colony and Protectorate for the dissolution of the marriage of persons domiciled in the United Kingdom.

[12th April, 1922.]

Be it enacted, &c. :-

1. *Validity of decrees.*—Any decree granted or made absolute by a court of competent jurisdiction in the Kenya Colony and Protectorate, under the provisions of the ordinance of that Colony and Protectorate known as the Divorce Ordinance, 1904 [East Africa Protectorate, No. 12 of 1904] for the dissolution of a marriage the parties to which were at the time of the commencement of the proceedings domiciled in the United Kingdom, and any order made by any such court in relation to any such decree, shall, if the proceedings were commenced before the passing of this Act, be as valid and be deemed always to have been as valid in all respects as though the parties to the marriage had been domiciled in the said Colony and Protectorate.

2. *Short title.*—This Act may be cited as the Kenya Divorces (Validity) Act, 1922.

## CHAPTER 11.

## JURIES ACT, 1922.

An Act to amend the law with respect to the preparation of Jurors Books, and otherwise to amend the law relating to Jurors and Juries, in England and Wales.

[31st May, 1922.]

Be it enacted, &c. :-

1. *Alteration of method of preparing jurors books.*—(1) After the commencement of this Act, lists of the persons qualified and liable to serve as jurors shall cease to be prepared in accordance with the provisions of the Juries Act, 1825 [6 Geo. 4, c. 50], as amended by any subsequent enactment, and the jurors books shall be prepared in accordance with the following provisions of this section.

(2) Subject to the provisions of this section, it shall be the duty of every registration officer within the meaning of the Representation of the People Act, 1918 [7 & 8 Geo. 5, c. 64], in making out in pursuance of that Act the electors lists for the autumn register for any year, to mark in the prescribed manner the names of such of the persons included in the lists as are qualified and liable to serve as jurors and the names of such of the persons so qualified and liable as are qualified to serve as special jurors.

(3) For the purpose of enabling registration officers to perform their duties under this section, the overseers of every parish shall, if so required by the registration officer of their area, furnish to him, in the prescribed manner, particulars with respect to the persons in their parish who are, on the last day of the qualifying period for registration in the autumn register, qualified and liable to serve as jurors or qualified to serve as special jurors.

For the purpose of their duties under this subsection, the overseers shall, on an application in that behalf made at any reasonable time to the collector or other officer having the custody of the duplicates of assessment to inhabited house duty for their parish, be entitled to inspect and take extracts from any of those duplicates, and any expenses properly incurred by them under this subsection shall be paid and allowed to them out of the poor rate of the parish.

If any overseer fails to comply with any of the requirements of this subsection, he shall be liable on summary conviction in respect of each offence to a fine not exceeding ten pounds.

(4) If any person who is marked as a juror or as a special juror in any of the electors lists for the autumn register claims that by reason of some disqualification or exemption he ought not to be so marked, he may, at any time within the period within which a claim to be registered as an elector may be made, apply in the prescribed manner to the registration officer to have the mark placed against his name removed.

The registration officer shall, as soon as may be, take every such application into consideration and shall in the prescribed manner notify to the applicant his decision thereon.

(5) If the registration officer refuses to comply with an application made under the last preceding subsection or fails to notify to the applicant within the prescribed time his decision thereon, the applicant may, within fourteen days next after the date on which the refusal of the registration officer is notified to him or the expiration of the prescribed time, as the case may be, apply to a court of summary jurisdiction for a declaration that he ought not to be marked as a juror or as a special juror, as the case may be.

Rules may be made by the Lord Chancellor for regulating the manner in which applications are to be made under this subsection and for requiring the decision of the court on any such application to be notified to the sheriff of the county and to the registration officer and for authorising the sheriff to make the necessary correction in the jurors book.

(6) Where the claim of any person not to be marked as a juror or as a special juror in any electors lists has been allowed by the registration officer or a court of summary jurisdiction, the registration officer shall, if he proposes to mark that person as a juror or as a special juror in any subsequent electors lists, give to him notice of his intention so to do not less than fourteen days before the publication of the electors lists.

Provided that the foregoing provision shall not apply in relation to the registration officer of a registration area other than the area in which the

claim was made, or in any case where the person whose claim was allowed has subsequently changed his place of residence.

(7) The clerk of the council of every county shall in every year, as soon as may be after the latest date for the publication of the autumn register, obtain copies of the registers for all such registration units as are comprised in whole or in part in the county, and shall, not later than the first day of December next following, cause to be made up from such parts of the registers as relate to any part of the county a book containing the names of all the persons who are marked in those parts as jurors, and that book shall be the jurors book for the county for the year beginning the first day of January next following.

(8) The clerk of the county council shall deliver the jurors book, as soon as may be after it has been prepared, to the sheriff of the county, and every sheriff on quitting office shall, within ten days next after the succeeding sheriff enters on his office, deliver to him the jurors book for the current year and all other like books prepared within the four years next preceding and then in his possession.

(9) Every registration officer shall, on demand, supply to the clerk of the county council, free of cost, such number of copies of the autumn register as the clerk may reasonably require for the purposes of this Act.

(10) Any expenses properly incurred by a registration officer in the performance of his duties under this Act shall, subject as hereinafter provided, be deemed to be expenses incurred by him in the performance of his duties under the Representation of the People Act, 1918, in relation to registration.

Provided that every registration officer shall certify the amount by which the expenses incurred by him in connection with the preparation of the autumn register for the year in which this Act comes into operation have been increased by reason of the provisions of this Act, and for the purpose of computing the amount which under subsection (4) of section fifteen of the Representation of the People Act, 1918 (which provides for the payment out of moneys provided by Parliament of one half of the amount paid by the council of a county or borough in respect of registration expenses), is to be paid to any council out of moneys provided by Parliament, the amount of the registration expenses paid by that council shall be decreased by the amount so certified.

If any question arises as to the correctness of any certificate given under the foregoing provision by a registration officer, that question shall be referred to the Secretary of State, and the decision of the Secretary of State in the matter shall be final and conclusive.

(11) If any registration officer fails to comply with the requirements of this section or any Order in Council made under this Act, or wilfully marks as a juror, or as a special juror, in any electors list any person who ought not to be so marked, he shall be deemed to have failed to perform a duty in connection with registration within the meaning of the Representation of the People Act, 1918, and, if any clerk of a county council or sheriff fails to comply with the requirements of this section or any Order in Council made under this Act, he shall, in respect of each offence, be liable to the same penalty as if he had committed an offence under section forty-six of the Juries Act, 1825.

(12) The provisions of this Act shall, subject to the prescribed modifications, apply in the case of persons whose names are included in lists of claimants for registration as they apply in the case of persons whose names are included in electors lists.

2. *Persons included in jurors book liable to serve notwithstanding disqualification or right to exemption.*—(1) Every person whose name is included in the jurors book as a juror or special juror shall be liable to serve as such, notwithstanding that he may have been entitled by reason of some disqualification or exemption to claim that he ought not to be marked in the electors list as a juror or special juror.

Provided that nothing in the foregoing provision shall affect the right of any person to be excused from attendance on a jury on the ground of illness, or, if a woman, for medical reasons.

(2) The notice to be published by the registration officer under paragraph 6 of the First Schedule to the Representation of the People Act, 1918 (which prescribes the duties of the registration officer in the preparation of electors lists), shall, in the case of the autumn register, include a notice to the effect that the names of persons marked in the electors lists as jurors or special jurors will be included as such in the jurors book, but that any person who is aggrieved by being so marked may, for the purpose of having the mark placed against his name removed, apply to the registration officer and to a court of summary jurisdiction in the manner hereinbefore in this Act provided, and that every person whose name is included in the jurors book as a juror will be liable to serve as such, notwithstanding that he might have claimed disqualification or exemption.

3. *Power of sheriff to excuse juror from attendance.*—If any person who has been summoned by the sheriff to attend on a jury shows in writing to the satisfaction of the sheriff that there is good reason why he should be excused from attending on that jury, it shall be lawful for the sheriff notwithstanding anything in the Juries Act, 1825, or any other Act, to excuse that person from so attending.

Provided that—

(a) nothing in this section shall affect the power of a court or judge to excuse any person from attending on a jury; and  
(b) the sheriff shall produce to the court or judge all applications received by him from persons asking to be excused from attendance on any jury summoned for the trial of cases before that court or judge and any correspondence relating to any such applications, and shall,

where he has complied with any such application, state to the court or judge his reasons for so doing.

4. *Provisions as to juries in borough courts.*—(1) In the case of any borough having a separate court of quarter sessions or a borough civil court, the persons whose names are included in so much of the jurors book for the area comprising the borough as relates to the area of the borough shall be qualified and liable to serve on grand juries in the borough and on juries for the trial of issues joined in either of those courts, and subsection (1) of section one hundred and eighty-six of the Municipal Corporations Act 1882 [45 & 46 Vict., c. 50], shall cease to have effect.

(2) The foregoing provisions of this section shall come into operation on the first day of January, nineteen hundred and twenty-three.

(3) The clerk of the council of a county shall, on demand, supply free of cost to the person charged with the return of jurors in a court of quarter sessions or civil court in any borough in the county, a copy of so much of the jurors book for the county as relates to the area of the borough.

5. *Abolition of present practice of striking special juries, and provision as to description of jurors in panel, &c.*—(1) Subject as hereinafter provided, a special jury shall in all cases be ballotted for and called in the order in which they are drawn from the box in the same manner as common jurors, and any enactments providing for the striking of a special jury according to the present practice shall cease to have effect:

Provided that nothing in this Act shall affect the manner of striking a special jury to try a question of disputed compensation under the Lands Clauses Consolidation Act, 1845 [8 & 9 Vict., c. 18].

(2) Where under the Juries Act, 1825, the addition of a juror is required to be stated on any panel, parchment, card or list, it shall be sufficient to set out the profession, calling or business of the juror.

6. *Power to make Orders in Council.*—(1) Provision may be made by Order in Council under this Act—

(a) for requiring and authorising the registration officer to mark as jurors or as special jurors in the autumn register for the year in which this Act comes into operation the names of the persons qualified and liable or qualified to serve as such, notwithstanding that their names have not been so marked in the electors lists, and for making so far as relates to the operation of this Act in that year any consequential modifications in the provisions thereof:

(b) for requiring and authorising the registration officer to mark provisionally as jurors or as special jurors in the electors lists for the spring register in any year the names of any persons included therein who are qualified and liable or qualified to serve as such:

(c) for prescribing the manner in which the jurors book is to be made up from the registers:

(d) for authorising the sheriff to require information to be furnished to him in writing or otherwise—

(i) by persons summoned to attend on juries, with respect to their sex and their professions, callings, or businesses; and

(ii) by persons applying to be excused from attending on juries, with respect to their previous service as jurors and any other matters relevant to the application; and

for imposing on persons who fail to furnish the required information or who furnish false information a penalty, to be recovered on summary conviction, not exceeding five pounds in respect of any one offence:

(e) for making such adaptations in any enactments as are necessary for giving full effect to this Act:

(f) otherwise for carrying this Act into effect.

(2) Any Order in Council made under this Act may be revoked or varied by a subsequent Order so made, but subject to such variation or revocation shall have effect as if enacted in this Act.

7. *Interpretation.*—In this Act, unless the context otherwise requires—  
The expression "prescribed" means prescribed by Order in Council under this Act:

The expression "county" includes a county of a city and a county of a town for which a separate commission of assize is issued:

The expression "clerk of the county council" means in the case of such a city or town as aforesaid the town clerk, and in the case of the county of London the clerk of the peace:

The expression "sheriff" includes any person charged with the return of jurors:

The expression "overseers" means, in relation to a metropolitan borough, the town clerk, and in relation to a parish for which in pursuance of the Vestries Act, 1850 [13 & 14 Vict., c. 57], there has been appointed a vestry clerk who is charged with duties in connection with the preparation of jury lists, the vestry clerk.

8. *Short title, saving, extent, and repeal.*—(1) This Act may be cited as the Juries Act, 1922.

(2) Nothing in this Act shall alter or affect—

(a) the preparation of jury lists or the jurors book in the City of London; or

(b) the qualification or liability of any person to be summoned to serve and to serve as a juror or special juror on any jury in the High Court or at assizes, or in any county court, except that (without prejudice to the provisions of section thirty-seven of the Juries Act, 1825) a person whose name is not included in the register of electors shall not be qualified or liable so to serve, and that a woman who is a vowed member of a religious order living in a convent or other religious community shall not be marked as a juror and shall not, although included in the jurors book, be liable to serve on any jury.

(3) This Act shall not apply to Scotland or Ireland.

(4) The enactments mentioned in the Schedule to this Act shall be repealed to the extent specified in the third column of that schedule.

SCHEDULE.

[Section 8.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
6 Geo. 4, c. 50	The Juries Act, 1825.	Sections five, six, eight, nine, ten, eleven, twelve, thirty-one and thirty-two; section thirty-three down to the words "provided always that"; in section thirty-four the words "the fees for striking such jury and"; sections thirty-six and forty-five; in section forty-six the words from "shall refuse" where they first occur to "application or," the words from "to provide" where they first occur to "aforesaid or" where they first occur, the words from "or if any clerk" to "within such division," the words "except in consequence of the conviction of the churchwarden or overseer hereinbefore provided for," the words from "or shall refuse or neglect within ten days," to "by any of his predecessors," and the words "clerk of the petty sessions"; in section fifty the words from the beginning to "heretofore accustomed"; the Schedule.
25 & 26 Vict. c. 107.	The Juries Act, 1862.	Sections four, five, six, eight, nine, and ten, and the Schedule.
33 & 34 Vict. c. 77.	The Juries Act, 1870.	In section eight the words "juries or," wherever they occur; sections eleven to fifteen and section seventeen.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	Subsection (1) of section one hundred and eighty-six.

CHAPTER 12.

REPRESENTATION OF THE PEOPLE ACT, 1922.

An Act to alter certain dates prescribed by the Representation of the People Act, 1918, in connexion with the registration of electors, and to amend section fifty-four of the Local Government Act, 1888. [31st May, 1922.]

Be it enacted, &c.:

1. *Revision of dates.*—The dates fixed by the Representation of the People Act, 1918 [7 & 8 Geo 5, c. 64] (in this Act referred to as "the principal Act"), for the end of the qualifying period and for certain other purposes in connexion with the registration of electors, shall be modified in the manner shown, as respects England and Wales in Part I, as respects Scotland in Part II, and as respects Northern Ireland in Part III, of the Schedule to this Act; and the principal Act shall have effect accordingly.

2. *Amendment of s. 54 of 51 & 52 Vict. c. 41.*—Where a representation has been made to a Secretary of State under section fifty-four of the Local Government Act, 1888, as amended by any subsequent enactment, to the effect that it is desirable to alter the boundary of any electoral division of a county in England or Wales, or the number of county councillors and electoral divisions in any such county, and where such notice of the proposal in the representation has been given as may have been prescribed by the Secretary of State, the Secretary of State may, if he thinks fit, having regard to all the circumstances of the case, make an order under the said section without causing any local inquiry to be made:

Provided that, if any local authority in or for the county, or any number of local government electors registered for any electoral division in the county, not being less than one hundred or than one-sixth of the electors, whichever number is the smaller, petition the Secretary of State against the proposal in the representation, the Secretary of State shall not make an order without a local inquiry.

3. *Short title.*—(1) This Act may be cited as the Representation of the People Act, 1922, and the Representation of the People Acts, 1918 to 1921, and this Act may be cited together as the Representation of the People Act, 1918 to 1922.

(2) This Act shall, for the purposes of sections six and fifteen of the Government of Ireland Act, 1920 [10 & 11 Geo. 5, c. 67], be deemed to be an Act passed before the appointed day.

SCHEDULE.

[Section 1.]

1. This schedule shows—

(a) the provisions of the principal Act referring to dates affected by this Act;

(b) the subject-matter to which the respective dates relate;

- (c) the dates fixed by the principal Act;  
(d) the dates to be substituted therefor under this Act.

2. Paragraph (a) of subsection (11) of section forty-four of the principal Act (which applies to the yearly register in Ireland the provisions applicable to the autumn register) shall, in the application of that Act to Northern Ireland, be construed as applying those provisions subject to the modification in dates set out in Part III of this schedule, and the register in force in Northern Ireland at the passing of this Act shall continue in force until the fifteenth day of December, nineteen hundred and twenty-two.

**PART I.**  
*England and Wales.*

(a) Provision of principal Act.	(b) Subject Matter.	(c) Dates fixed by principal Act.		(d) Dates to be substituted under this Act.	
		Spring Register.	Autumn Register.	Spring Register.	Autumn Register.
Sections 6 and 11.	End of qualifying period.	15 Jan.	15 July	15 Dec.	15 June
Schedule I.					
Rule 6.	Publication of electors lists.	1 Feb.	1 Aug.	17 Jan.	15 July.
Rule 12.	Last day for notice of objections to electors lists.	15 "	15 "	4 Feb.	4 Aug.
Rule 9.	Last day for claims.	18 "	18 "	10 "	10 "
Rule 16.	Last day for claims as absent voters.	18 "	18 "	24 "	24 "
Rule 17.	Last day for notification of desire by naval or military voter not to be placed on absent voters list.	18 "	18 "	24 "	24 "
Rule 14.	Publication of list of objections to electors lists.	21 "	21 "	16 "	16 "
Rule 11.	Publication of list of claimants.	24 "	24 "	16 "	16 "
Rule 12.	Last day for objections to claimants.	7 Mar.	4 Sept.	24 "	24 "
Rule 15.	Publication of list of objections to claimants.	7 "	4 "	24 "	24 "

**PART II.**  
*Scotland.*

Sections 6 and 11.	End of qualifying period.	15 Jan.	15 July	15 Dec.	15 June
Schedule I.					
Rule 6.	Publication of electors lists.	1 Feb.	1 Aug.	1 Feb.	1 Aug.
Rule 12.	Last day for notice of objections to electors lists.	15 "	15 "	15 "	15 "
Rule 9.	Last day for claims.	18 "	18 "	15 "	15 "
Rule 16.	Last day for claims as absent voters.	18 "	18 "	25 "	25 "
Rule 17.	Last day for notification of desire by naval or military voter not to be placed on absent voters list.	18 "	18 "	25 "	25 "
Rule 14.	Publication of list of objections to electors lists.	21 "	21 "	22 "	22 "
Rule 11.	Publication of list of claimants.	24 "	24 "	22 "	22 "
Rule 12.	Last day for objections to claimants.	7 Mar.	4 Sept.	27 "	27 "
Rule 15.	Publication of list of objections to claimants.	7 "	4 "	27 "	27 "

**PART III.**  
*Northern Ireland.*

(a) Provision of principal Act.	(b) Subject-matter.	(c) Dates fixed by principal Act.	(d) Dates to be substituted under this Act.
Section 44 (11) (a).	End of qualifying period - -	15 July	15 July.
Schedule I.:			
Rule 6 -	Publication of electors lists - -	1 Aug.	1 Sept.
Rule 12 -	Last day for notice of objections to electors lists.	15 "	15 "
Rule 9 -	Last day for claims - - -	18 "	18 "
Rule 16 -	Last day for claims as absent voters	18 "	18 "
Rule 17 -	Last day for notification of desire by naval or military voter not to be placed on absent voters list.	18 "	18 "
Rule 14 -	Publication of list of objections to electors lists.	21 "	21 "
Rule 11 -	Publication of list of claimants -	24 "	24 "
Rule 12 -	Last day for objections to claimants	4 Sept.	5 Oct.
Rule 15 -	Publication of list of objections to claimants.	4 "	5 "
Sections 11 (2) and 44 (11) (b).	Register comes into force - -	15 Oct.	15 Dec.

**CHAPTER 13.**

**EMPIRE SETTLEMENT ACT, 1922.**

An Act to make better provision for furthering British settlement in His Majesty's Oversea Dominions. [31st May, 1922.]

**CHAPTER 14.**

**AUDIT (LOCAL AUTHORITIES, &c.) ACT, 1922.**

An Act to make provision with respect to the period for which certain accounts subject to audit by district auditors are to be made up and audited, and to authorise the holding of extraordinary audits of any such accounts. [29th June, 1922.]

Be it enacted, &c.:-

1. *Accounts of certain local authorities, &c., to be made up yearly.*—(1) Where it is provided by any enactment (whether contained in a general or in any other Act) that any accounts subject to audit by district auditors are to be made up and audited half-yearly, those accounts shall, notwithstanding the said enactment, be made up yearly to the thirty-first day of March, or such other date as the Minister of Health may by general or special order direct, and audited once in every year.

(2) This section shall not apply to the accounts of boards of guardians in the metropolitan area or of the managers of any school district or sick asylum district in that area other than the managers of the Metropolitan Asylums District.

2. *Power of Minister of Health to direct holding of extraordinary audit.*—(1) The Minister of Health may at any time direct a district auditor to hold an extraordinary audit of any accounts which are subject to audit by district auditors.

(2) An extraordinary audit held under this section shall be deemed to be an audit within the meaning of the enactments relating to audit by district auditors, and may be held after three days' notice in writing given to the authority or persons whose accounts are to be audited:

Provided that section three of the District Auditors Act, 1879 [42 & 43 Vict. c. 6] (which requires the submission to the district auditor of a financial statement in the prescribed form), shall not apply in the case of an extraordinary audit held under this section.

3. *Short title.*—This Act may be cited as the Audit (Local Authorities &c.) Act, 1922.

**CHAPTER 15.**

**GOVERNMENT OF THE SOUDAN LOAN (AMENDMENT) ACT, 1922**

An Act to amend the Government of the Soudan Loan Act, 1919. [29th June, 1922.]

**CHAPTER 16.**

**LAW OF PROPERTY ACT, 1922.**

An Act to assimilate and amend the law of Real and Personal Estate, to abolish copyhold and other special tenures, to amend the law relating to commonable lands and of intestacy, and to amend the Wills Act, 1837, the Settled Land Acts, 1882 to 1890, the Conveyancing Acts, 1881 to 1911, the Trustee Act, 1893, and the Land Transfer Acts, 1875 and 1897. [29th June, 1922.]

## CHAPTER 17.

## FINANCE ACT, 1922.

is Act to grant certain Duties of Customs and Inland Revenue (including Excise), to alter other Duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connection with Finance. [20th July, 1922.]  
Be it enacted, &c. :-

## PART I.—CUSTOMS AND EXCISE.

1. *Duty on tea.*—In lieu of the duty of customs payable on tea imported into Great Britain or Ireland there shall, subject to the provisions of section eight of the Finance Act, 1919 [9 & 10 Geo. 5, c. 32.] (which relates to imperial preferential rates), be charged, levied and paid as from the fifteenth day of May, nineteen hundred and twenty-two, until the first day of August, nineteen hundred and twenty-three, the following duty, that is to say:—

Tea	...	...	...	the lb.	eight pence.
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2. *Reduced duties on cocoa.*—In lieu of the duties of customs payable on cocoa imported into Great Britain or Ireland there shall, subject to the provisions of section eight of the Finance Act, 1919, be charged, levied and paid as from the fifteenth day of May, nineteen hundred and twenty-two, the following reduced duties, that is to say:—

					£ s. d.
Cocoa	...	...	...	the cwt.	1 8 0
Cocoa (husks and shells)	...	...	...	the cwt.	0 4 0
Cocoa-butter	...	...	...	the lb.	0 0 3

Provided that in the application of this section to any duty charged on manufactured or prepared goods under section seven of the Finance Act, 1901, [1 Edw. 7, c. 7], the first day of July, nineteen hundred and twenty-two, shall be substituted for the fifteenth day of May, nineteen hundred and twenty-two.

3. *Reduced duties on coffee, chicory and coffee substitutes.*—(1) In lieu of the duties of customs payable on coffee and chicory imported into Great Britain or Ireland there shall, subject to the provisions of section eight of the Finance Act, 1919, be charged, levied and paid as from the fifteenth day of May, nineteen hundred and twenty-two, the following reduced duties, that is to say:—

					£ s. d.
Coffee (not kiln-dried, roasted or ground)	...	...	...	the cwt.	1 8 0
Coffee (kiln-dried, roasted or ground)	...	...	...	the lb.	0 0 4
Chicory (raw or kiln-dried)	...	...	...	the cwt.	1 6 6
Chicory (roasted or ground)	...	...	...	the lb.	0 0 4

(2) In lieu of the duty of excise payable on chicory there shall, as from the fifteenth day of May, nineteen hundred and twenty-two, be charged, levied and paid the following reduced duty, that is to say:—

Chicory (raw or kiln-dried)	...	...	...	the cwt.	1 1 1
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and so in proportion for any less quantity.

(3) In lieu of the duty of excise now payable in respect of coffee substitutes there shall, as from the fifteenth day of May, nineteen hundred and twenty-two, be charged, levied and paid on any article or substance prepared or manufactured for the purpose of being in imitation of, or in any respect to resemble, or to serve as a substitute for, coffee or chicory, and on any mixture of any such article or substance with coffee or chicory, the following reduced duty, that is to say:—

					£ s. d.
For every quarter of a pound of any such article, substance or mixture, which is sold or kept for sale in Great Britain or Ireland	...	...	...	...	0 0 1

(4) For the rates of drawback on coffee and chicory and mixtures of coffee and chicory specified in section twenty-two of the Finance Act, 1916, [6 & 7 Geo. 5, c. 24], there shall be substituted the following reduced rates, that is to say:—

					£ s. d.
Coffee	...	...	...	forevery 100 lbs.	1 8 0
Chicory	...	...	...	forevery 100 lbs.	1 2 6
Mixtures of coffee and chicory	...	...	...	forevery 100 lbs.	1 2 6

Provided that the reduction of rates under this subsection shall not have effect in relation to any goods as respects which it is shown to the satisfaction of the Commissioners of Customs and Excise that duty was paid at the rate in force before the fifteenth day of May, nineteen hundred and twenty-two.

4. *Continuation of customs duties imposed under 5 & 6 Geo. 5, c. 89.*—The new import duties and the additional customs duties on dried fruits imposed by Part I of the Finance (No. 2) Act, 1915, shall, subject to the provisions of section eight of the Finance Act, 1919, continue to be charged, levied and paid in the case of the new import duties until the first day of May, nineteen hundred and twenty-three, and in the case of the duties on dried fruits until the first day of August, nineteen hundred and twenty-three.

5. *Continuation of increased medicine duties.*—The additional duties of excise imposed by section eleven of the Finance (No. 2) Act, 1915, upon medicines liable to duty shall continue to be charged, levied and paid until the first day of August, nineteen hundred and twenty-three.

6. *Excise duties on sugar and molasses made from home-grown materials to cease.*—(1) The duties of excise chargeable under section nine of the Finance Act, 1918, [8 & 9 Geo. 5, c. 15], in respect of sugar and molasses made in Great Britain or Ireland (and except as regards goods in respect of which the said duties have been paid) the excise drawbacks and allowance under the said section shall, as respects sugar and molasses made from beet grown in Great Britain or Ireland (in this section referred to as "non-dutiable sugar and molasses") cease and determine as from the commencement of this Act.

(2) Part III of the First Schedule to the Finance (No. 2) Act, 1915, shall have effect as though references therein to the manufacture and manufacturers of sugar included references to the manufacture and manufacturers of non-dutiable sugar, and with the substitution in the application thereof to the manufacturers of non-dutiable sugar of the words "with a view to securing that no drawback or allowance shall be paid in respect of sugar or molasses upon which no duty has been paid" for the words "with a view to securing and collecting the excise duty imposed by this Act."

(3) Notwithstanding anything in any Act, the Commissioners of Customs and Excise may, subject to the prescribed conditions, permit a person refining sugar in bond to receive non-dutiable sugar or molasses at his bonded premises and to deliver therefrom without payment of duty a corresponding quantity of sugar or molasses.

(4) A person manufacturing non-dutiable sugar or molasses shall not, except with the permission of the Commissioners of Customs and Excise and subject to the prescribed conditions, have in his custody or possession any materials out of which sugar or molasses are manufactured other than beet grown in Great Britain or Ireland or materials produced from such beet.

If any person acts in contravention of this subsection, he shall, in respect of each offence, be liable to an excise penalty of one hundred pounds, and the goods in respect of which the offence is committed shall be forfeited.

(5) In this section the expression "prescribed" means prescribed by regulations made by the Commissioners of Customs and Excise.

7. *Excise licence not required for sale of certain liquor.*—An excise licence shall not be required for the sale in Great Britain, whether wholesale or retail, of any liquor which, whether made on the licensed premises of a brewer of beer for sale or elsewhere, is found, on analysis of a sample thereof at any time, to be of an original gravity not exceeding one thousand and sixteen degrees and to contain not more than two per cent. of proof spirit.

8. *Private brewers' licences.*—The following proviso shall be substituted for the proviso to section six, subsection (1), of the Finance Act, 1919:—

Provided that, where the brewer is the occupier of a house of an annual value of eight pounds or less, he may in any year obtain without payment of duty a licence to brew a quantity not exceeding four bushels of malt, or the equivalent thereof, for his own use.

In the foregoing provision the expression "year" means the year ending on the thirtieth day of September.

9. *Reduction of club duty.*—The excise duty to be charged under section forty-eight of the Finance (1909-10) Act, 1910 [10 Edw. 7, and 1 Geo. 5, c. 8], on statements of purchases of intoxicating liquor to be supplied in clubs shall, as respects any statement relating to purchases during any period after the thirty-first day of December, nineteen hundred and twenty-one, be at the rate of threepence instead of sixpence for every pound of the purchases shown in the statement.

10. *Exemption of certain compound articles from duty under 11 & 12 Geo. 5, c. 47.*—Where the Treasury after consultation with the Board of Trade are satisfied as respects any article which is liable to duty under the Safeguarding of Industries Act, 1921, by reason only that some ingredient or part of the article is liable to duty under that Act, that it is inexpedient having regard to the nature of that ingredient or part and to the smallness of its value in comparison with the total value of the article, that duty should be charged under that Act, the Treasury may by order exempt that article from duty under the said Act.

11. *Entertainments duty declared to be chargeable on certain payments.*—For removing doubts, it is hereby declared that entertainments duty within the meaning of section one of the Finance (New Duties) Act, 1916 [6 & 7 Geo. 5, c. 11], is by virtue of that Act chargeable on the following payments, that is to say:—

(a) payments for admission to an entertainment made to a person other than the proprietor of the entertainment; and

(b) payments of rent made in respect of an interest in any premises which is primarily acquired for the purpose of securing admission to an entertainment;

and accordingly in that section the expressions "the proprietor of the entertainment" and "the proprietor" shall include and be deemed always to have included any person on whose behalf payments for admission to an entertainment are received.

12. *Amendment as to duties to be charged on certain negative cinematograph films.*—If it is proved to the satisfaction of the Commissioners of Customs and Excise as respects any imported negative cinematograph film, whether developed or undeveloped, that the production of the film was organised by persons whose chief or only place of business was in the United Kingdom, and that the producer of the film and the principal actors and artists employed for the production thereof were British subjects

and domiciled in the United Kingdom, that film shall, subject to compliance with such conditions as the Commissioners may by regulation prescribe, be treated for the purpose of the duties charged on imported cinematograph films by section twelve of the Finance (No. 2) Act, 1915, as being blank film.

**13. Relief from entertainments duty.**—(1) Entertainments duty within the meaning of section one of the Finance (New Duties) Act, 1916, as amended by any subsequent enactment, shall not be charged on payments for admission to an entertainment as respects which it is proved to the satisfaction of the Commissioners of Customs and Excise that the entertainment—

(a) is provided by a society which is established solely for the purpose of promoting graphic art or the art of sculpture, or both such arts, and which is not conducted for profit; and

(b) consists solely of an exhibition of works of graphic art or of sculpture, or of both such classes of works, executed and exhibited by persons who practise graphic art or the art of sculpture for profit and as their main occupation.

(2) The provisions in subsection (5) of section one of the Finance (New Duties) Act, 1916, requiring the repayment to the proprietor of an entertainment in certain cases of the amount of the entertainments duty paid in respect of the entertainment, shall have effect as if for the words "and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts" there were substituted the words "and that the whole of the expenses of the entertainment do not exceed thirty per cent. of the receipts."

(3) In this section the expression "society" includes a company, institution, or other association of persons, by whatever name called.

**14. Charge of higher rate of duty on change in user, &c., of mechanically-propelled vehicles.**—(1) Where a licence has been taken out for a mechanically-propelled vehicle at any rate under the Second Schedule to the Finance Act, 1920 [10 & 11 Geo. 5, c. 18], and the vehicle is at any time while such licence is in force used in an altered condition or in a manner or for a purpose which brings it within, or which if it was used solely in that condition or in that manner or for that purpose would bring it within, a class or description of vehicle to which a higher rate of duty is applicable under the said schedule, duty at such higher rate shall become chargeable in respect of the licence for the vehicle.

(2) Where a licence has been taken out for a mechanically-propelled vehicle, and by virtue of such user as aforesaid a higher rate of duty becomes chargeable and duty at the higher rate was not paid before the vehicle was so used, the person so using the vehicle shall be liable to a penalty of an amount equal to three times the difference between the duty actually paid on the licence and the amount of duty at such higher rate or twenty pounds, whichever amount is the greater.

(3) This section shall come into operation on the first day of January, nineteen hundred and twenty-three.

**15. Amendment of s. 9 of 10 & 11 Geo. 5, c. 72.**—(1) Section nine of the Roads Act, 1920 (which enables manufacturers of and dealers in mechanically-propelled vehicles to take out a general licence in respect of vehicles used by them in lieu of separate licences for each vehicle) shall extend to repairs of mechanically-propelled vehicles.

(2) It shall be lawful for the Minister of Transport to make two sets of regulations under the said section nine prescribing the conditions subject to which general licences are to be issued and prescribing the purposes for which the holder of a general licence may use it, and in that case—

(a) If a licence to which the one set of regulations applies is taken out by a manufacturer, repairer, or dealer, the yearly rate of duty shall be twenty-five pounds, or in the case of a licence to be used only for vehicles chargeable with duty under paragraph one or paragraph two of the Second Schedule to the Finance Act, 1920, five pounds;

(b) If a licence to which the other set of regulations applies is taken out by a manufacturer, repairer, or dealer, the yearly rate of duty shall be five pounds, or in the case of a licence to be used only for vehicles chargeable with duty under paragraph one or paragraph two of the Second Schedule to the Finance Act, 1920, one pound;

Provided that any such licence to which the first-mentioned set of regulations is applicable may be taken out for one quarter of the year only, beginning the first day of January, the twenty-fifth day of March, the first day of July, or the first day of October, and in the case of any licence so taken out the duty shall be thirty per cent. of the full annual duty.

It shall be at the option of every manufacturer or repairer of, or dealer in, mechanically-propelled vehicles wishing to take out a general licence whether the licence is one to which the one or other of the two sets of regulations applies.

(3) This section shall come into operation on the first day of January, nineteen hundred and twenty-three, and on the rates of duty for general licences prescribed by this section becoming chargeable the rates prescribed for such licences by section nine of the Roads Act, 1920, shall cease to be chargeable.

#### PART II.—INCOME TAX AND INHABITED HOUSE DUTY.

**16. Income tax and super-tax for 1922-23.**—(1) Income tax for the year 1922-23 shall be charged at the rate of five shillings, and the rates of super-tax for that year shall, for the purposes of section four of the Income Tax Act, 1918 [8 & 9 Geo. 5, c. 40], as amended by the Finance Act, 1920, be the same as those for the year 1921-22.

(2) All such enactments relating to income tax and super-tax respectively as were in force with respect to the duties of income tax and super-tax granted for the year 1921-22 shall have full force and effect with respect to the duties of income tax and super-tax respectively granted by this Act.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A and B, or of inhabited house duty, for the year 1921-22, shall be taken as the annual value of that property for the same purpose for the year 1922-23:

Provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed as referring to a year of assessment ending on the twenty-fourth day of May instead of to a year of assessment ending on the fifth day of April; and

(b) shall not apply to lands, tenements, and hereditaments in the administrative county of London with respect to which the valuation list under the Valuation (Metropolis) Act, 1869 [32 & 33 Vict., c. 67], is, by that Act, made conclusive for the purposes of income tax and inhabited house duty.

**17. Computation of profits under Case III of Schedule D.**—The following Rule shall be substituted for Rule 2 of the Rules applicable to Case III of Schedule D:—

"2.—(1) The tax shall, subject as hereinafter provided, be computed—  
(a) as respects the year of assessment in which the profits or income first arise, on the full amount of the profits or income arising within that year; and

(b) as respects subsequent years of assessment, on the full amount of the profits or income arising within the year preceding the year of assessment:

Provided that—

(i) where the profits or income first arose on some day in the year preceding the year of assessment other than the sixth day of April, the computation shall be made on the profits or income of the year of assessment; and

(ii) where the profits or income first arose on the sixth day of April in the year preceding the year of assessment, or on some day in the year next before the year preceding the year of assessment other than the sixth day of April, the person charged shall be entitled, on giving notice in writing to the surveyor of taxes at any time within twelve months after the end of the year of assessment, to be charged on the amount of the profits or income of that year, and if the tax charged has been paid, any amount overpaid shall be repaid.

(2) Tax shall be paid on the actual amount computed as aforesaid without any deduction."

**18. Income tax on offices, employments and pensions to be chargeable under Schedule E.**—(1) Such profits or gains arising or accruing to any person from an office, employment or pension as are under the Income Tax Act, 1918, chargeable to income tax under Schedule D (other than the profits or gains chargeable under Case V of Schedule D, or under Rule 7 of the Miscellaneous Rules applicable to Schedule D), shall cease to be chargeable under that schedule, and shall be chargeable to tax under Schedule E, and the Rules applicable to that schedule shall apply accordingly subject to the provisions of this Act.

(2) Rule 2 of the Rules applicable to Cases I and II of Schedule D (which relates to the assessment and charge of weekly wage-earners), shall be deemed to be one of the Rules applicable to Schedule E.

(3) Rule 7 of the Rules applicable to Schedule E (which relates to the charge of tax in respect of offices and employments of profit held under a railway company), shall apply to all offices and employments held under, and pensions paid by, a railway company:

Provided that nothing in this subsection shall affect the provisions relating to the quarterly assessment and the collection of income tax in the case of weekly wage-earners employed by way of manual labour.

(4) Paragraph (5) of Rule 18 of the Rules applicable to Schedule E shall have effect as though the words "or in which he is employed" were inserted at the end thereof.

(5) The following paragraph shall be inserted at the end of Rule 5 of the Rules applicable to Schedule E:—

"If any person proves to the satisfaction of the Commissioners concerned that the amount for which an assessment has been made in respect of his salary, fees or emoluments for any year of assessment exceeds the amount of the salary, fees or emoluments for that year, the assessment shall be adjusted, and any amount overpaid by way of tax shall be repaid."

(6) The provisions of subsection (1) and subsection (3) of this section shall have effect and shall be deemed always to have had effect, for the purpose of any assessment to income tax which is made or becomes final and conclusive after the first day of May, nineteen hundred and twenty-two, in respect of any employment (other than that of a weekly wage-earner employed by way of manual labour) under any public department, or under any company, society or body of persons or other employer mentioned in Rule 6 of the Rules applicable to Schedule E.

(7) Income tax in respect of profits or gains which would but for the provisions of this section have been chargeable under Schedule D for the year 1922-23, may be charged for that year either under Schedule D or under Schedule E, but the tax shall in all cases be computed in accordance with the provisions and rules applicable to Schedule E as amended by this Act.

**19. Appeals to Special Commissioners against assessments under Schedule E.**—Any person charged to income tax under Schedule E may appeal to the Special Commissioners against any assessment in respect of his emoluments for any year, or against the amount of tax deducted therefrom, and the provisions of section one hundred and forty-eight of the Income Tax Act, 1918, shall, with any necessary modification, apply to any such appeal:

Provided that, where any such person has under any other provisions of the Income Tax Acts any right of appeal to any other body of Commissioners, he may appeal either under those provisions or under this section, but not under both.

**20. Income under revocable and certain other dispositions to be treated as income of donor.**—(1) Any income—

(a) of which any person is able, or has, at any time since the fifth day of April, nineteen hundred and twenty-two, been able, without the consent of any other person by means of the exercise of any power of appointment, power of revocation or otherwise howsoever by virtue or in consequence of a disposition made directly or indirectly by himself, to obtain for himself the beneficial enjoyment; or

(b) which by virtue or in consequence of any disposition made, directly or indirectly, by any person after the first day of May, nineteen hundred and twenty-two (other than a disposition made for valuable and sufficient consideration), is payable to or applicable for the benefit of any other person for a period which cannot exceed six years; or

(c) which by virtue or in consequence of any disposition made, directly or indirectly, by any person after the fifth day of April, nineteen hundred and fourteen, is payable to or applicable for the benefit of a child of that person for some period less than the life of the child; shall, subject to the provisions of this section, but in cases under the above paragraph (c) only if and so long as the child is an infant and unmarried, be deemed for the purposes of the enactments relating to income tax (including super-tax) to be the income of the person who is or was able to obtain the beneficial enjoyment thereof, or of the person, if living, by whom the disposition was made, as the case may be, and not to be for those purposes the income of any other person:

Provided that in cases under the above paragraph (a)—

(i) where any such power as aforesaid can be exercised by a person with the consent of the wife or the husband of that person, the power shall, for the purposes of the said paragraph, be deemed to be exercisable without the consent of another person, except where the husband and wife are living apart either by agreement or under an order of a court of competent jurisdiction; and

(ii) where any such power as aforesaid is exercisable by the wife or the husband of the person who made the disposition, the power shall, for the purposes of the said paragraph, be deemed to be exercisable by the person who made the disposition.

Provided also that—

(i) the above paragraph (c) shall not apply as regards any income which is derived from capital which, at the end of the period during which that income is payable to or applicable for the benefit of the child, is required by the disposition to be held on trust absolutely for, or to be transferred to, the child, or any income which is payable to or applicable for the benefit of a child during the whole period of the life of the person by whom the disposition was made; and

(ii) for the purposes of the said paragraph (c) income shall not be deemed to be payable to or applicable for the benefit of a child for some period less than its life by reason only that the disposition contains a provision for the payment to some other person of the income in the event of the bankruptcy of the child, or of an assignment thereof, or a charge thereon being executed by the child.

(2) Where by virtue of paragraph (b) or paragraph (c) of subsection (1) of this section any income tax or super-tax becomes chargeable on and is paid by the person by whom the disposition was made, that person shall be entitled to recover from any trustee or other person to whom the income is payable by virtue or in consequence of the disposition the amount of the tax so paid, and for that purpose to require the Commissioners concerned to furnish to him a certificate specifying the amount of the income in respect of which he has so paid tax and the amount of the tax so paid, and any certificate so furnished shall be conclusive evidence of the facts appearing thereby.

(3) Where any person obtains in respect of any allowance or relief a repayment of income tax in excess of the amount of the repayment to which he would but for the provisions of paragraph (b) or paragraph (c) of subsection (1) of this section have been entitled, an amount equal to the excess shall be paid by him to the trustee or other person to whom the income is payable by virtue or in consequence of the disposition, or where there are two or more such persons shall be apportioned among those persons as the case may require.

If any question arises as to the amount of any payment or as to any apportionment to be made under this subsection, that question shall be decided by the General Commissioners whose decision thereon shall be final.

(4) Any income which is deemed by virtue of this section to be the income of any person, shall be deemed to be the highest part of his income.

(5) In this section, unless the context otherwise requires—

The expression "child" includes step-child or illegitimate child;

The expression "disposition" includes any trust, covenant, agreement or arrangement.

**21. Super-tax on undistributed income of certain companies.**—With a view to preventing the avoidance of the payment of super-tax through the

withholding from distribution of income of a company which would otherwise be distributed, it is hereby enacted as follows:

(1) Where it appears to the Special Commissioners that any company to which this section applies has not, within a reasonable time after the end of any year or other period ending on any date subsequent to the fifth day of April, nineteen hundred and twenty-two, for which accounts have been made up, distributed to its members in such manner as to render the amount distributed liable to be included in the statements to be made by the members of the company of their total income for the purposes of super-tax, a reasonable part of its actual income from all sources for the said year or other period, the Commissioners may, by notice in writing to the company, direct that for purposes of assessment to super-tax, the said income of the company shall, for the year or other period specified in the notice, be deemed to be the income of the members, and the amount thereof shall be apportioned among the members:

Provided that, in determining whether any company has or has not distributed a reasonable part of its income as aforesaid, the Commissioners shall have regard not only to the current requirements of the company's business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business.

(2) Any super-tax chargeable under this section in respect of the amount of the income of the company apportioned to any member of the company, shall be assessed upon that member in the name of the Company, and, subject as hereinafter provided, shall be payable by the company, and all the provisions of the Income Tax Acts and any regulations made thereunder relating to super-tax assessments and the collection and recovery of super-tax shall, with any necessary modification, apply to super-tax assessments and to the collection and recovery of super-tax charged under this section.

(3) A notice of charge to super-tax under this section shall in the first instance be served on the member of the company on whom the tax is assessed, and if that member does not within twenty-eight days from the date of the notice elect to pay the tax a notice of charge shall be served on the company and the tax shall thereupon become payable by the company:

Provided that nothing in this subsection shall prejudice the right to recover from the company the super-tax charged in respect of any member who has elected as aforesaid but who fails to pay the tax by the first day of January in the year of assessment or within twenty-eight days of the date on which he so elected, whichever is later.

(4) Any undistributed income which has been assessed and charged to super-tax under this section shall, when subsequently distributed, be deemed not to form part of the total income from all sources for the purposes of super-tax of any individual entitled thereto.

Where a member of a company has been assessed to and has paid super-tax otherwise than under this section in respect of any income which has also been assessed and upon which super-tax has been paid under this section, he shall, on proof to the satisfaction of the Special Commissioners of the double assessment, be entitled to repayment of so much of the super-tax so paid by him as was attributable to the inclusion in his total income from all sources of the first-mentioned income.

(5) Where super-tax is charged under this section in respect of the income of a company for any year or other period, the Commissioners of Inland Revenue shall, on a certificate from the Special Commissioners that the super-tax has been accounted for, repay to the company the amount of any corporation profits tax paid by the company in respect of the corresponding accounting period or part thereof.

(6) This section shall apply to any company—

(a) which has, since the fifth day of April, nineteen hundred and fourteen, been registered under the Companies Acts, 1908 to 1917; and

(b) in which the number of shareholders computed as hereinafter provided is not more than fifty; and

(c) which has not issued any of its shares as a result of a public invitation to subscribe for shares; and

(d) which is under the control of not more than five persons.

For the purposes of this subsection—

In computing the number of shareholders of a company there shall be excluded any shareholder who is a trustee or nominee for some person otherwise owning or beneficially interested in shares in the company, or who is an employee of the company, or is the wife or the unmarried infant child of a beneficial owner of shares in the company;

A company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or relatives or nominees of those persons, or where the control is by any other means whatever in the hands of those persons;

The expression "relative" means a husband or wife, ancestor, or lineal descendant, brother or sister;

The expression "nominee" means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person;

Persons in partnership and persons interested in the estate of a deceased person or in property held on a trust shall, respectively, be deemed to be a single person.

(7) In this section the expression "member" shall include any person having a share or interest in the capital or profits or income of a company, and the expression "employee" shall not include any governing director managing director, or director.

(8) The provisions contained in the First Schedule to this Act shall have effect as to the computation of the actual income from all sources of the

company, the apportionment thereof amongst members of the company, and otherwise for the purpose of carrying into effect, and in connection with, this section.

(9) The provisions of this section shall apply for the purposes of assessment to super-tax for the year 1923-24 and any succeeding year of assessment.

**22. Delivery of particulars for purposes of super-tax.**—(1) The Special Commissioners may, whether an assessment to super-tax has been made or not, require any individual who has been required to make a return of his total income for the purposes of super-tax to furnish to them within such time as they may prescribe, not being less than twenty-eight days, such particulars as to the several sources of his income and the amount arising from each source, and as to the nature and the amount of any deductions claimed to be allowed therefrom, as they consider necessary.

(2) If any person without reasonable excuse fails to furnish within the time prescribed any particulars required under this section, he shall be liable to a penalty not exceeding fifty pounds, and after judgment has been given for that penalty to a further penalty of the like amount for every day during which the failure continues.

**23. Amendments as to Schedule B.**—(1) The definition of the expression "assessable value" in Schedule B of the Income Tax Act, 1918, shall have effect as though for the words "an amount equal to twice the annual value" there were substituted the words "an amount equal to the annual value," and as though for the words "an equal amount to the annual value" there were substituted the words "an equal amount to one-third of the annual value."

(2) In paragraph (a) of Rule 7 of the Rules applicable to Schedule B there shall be substituted for the words "a year" the words "ten years."

**24. Amendment as to allowance for repairs.**—(1) The following paragraphs shall be substituted for paragraphs (i) and (ii) of paragraph (1) (b) of Rule 7 of No. V. in Schedule A (which relates to the allowance for repairs):—

"(i) where the owner is occupier or chargeable as landlord, or where a tenant is occupier and the landlord has undertaken to bear the cost of repairs, by a sum equal, where the amount of the assessment does not exceed twenty pounds, to one-fourth part of that amount, and, where the amount of the assessment exceeds twenty pounds but does not exceed forty pounds, to one-fifth part of that amount, and where the amount of the assessment exceeds forty pounds, to one-sixth part of that amount; and

(ii) where a tenant is occupier and has undertaken to bear the cost of repairs, by such a sum, not exceeding one-fourth, one-fifth or one-sixth part of the amount of the assessment, as the case may be, as may be necessary to reduce the amount of the assessment to the amount of rent payable by him:

"Provided that the amount by which an assessment is reduced shall not, in the case of an assessment exceeding the amount of twenty pounds, but not exceeding the amount of forty pounds, or of an assessment exceeding the amount of forty pounds, be less than it would have been if the amount of the assessment had been twenty pounds or forty pounds, as the case may be."

(2) In paragraph (2) of the said Rule 7, for the words "one-sixth" there shall be substituted the words "one-fourth, one-fifth or one-sixth, as the case may be," and in paragraph (1) of Rule 8 of the said Number V. in Schedule A for the words "one sixth part" there shall be substituted the words "one-fourth, one-fifth or one-sixth part, as the case may be."

(3) This section shall not have effect as respects income tax for the year 1922-23, and shall, unless Parliament otherwise determines, cease to have effect on the fifth day of April, nineteen hundred and twenty-eight.

**25. Amendment as to allowance for maintenance, repairs, &c.**—(1) The following paragraphs shall be substituted for paragraph (3) of Rule 8 of No. V. in Schedule A (which grants relief in certain cases in respect of the cost of maintenance, repairs, &c.):—

"This Rule shall apply to any land (inclusive of farmhouses and other buildings, if any) or house, the assessment on which is reduced for the purpose of collection:

Provided that no repayment of tax shall be made under this rule in respect of the cost of maintenance repairs, insurance or management if or to such extent as that cost has been otherwise allowed as a deduction in computing income for the purposes of income tax."

(2) This section shall not have effect as respects income tax for the year 1922-23.

**26. Allowance to owner of mineral rights in respect of expenses.**—(1) Where for any year of assessment rights to work minerals in the United Kingdom are let, the lessor shall be entitled on making a claim for the purpose to be repaid so much of the income tax paid by him by deduction or otherwise in respect of the rent or royalties for that year as is equal to the amount of the tax on any sums proved to the satisfaction of the Special Commissioners to have been wholly, exclusively, and necessarily disbursed by him as expenses of management or supervision of those minerals in that year:

Provided that no repayment of tax shall be made—

(a) except on proof to the satisfaction of the Special Commissioners of payment of tax on the aggregate amount of the rent or royalties; or

(b) if, or to such extent as, the said expenses have been otherwise allowed as a deduction in computing income for the purposes of income tax.

(2) The provisions of subsection (2) of section thirty-three of the Income Tax Act, 1918, shall apply to claims under this section.

**27. Allowances to war widows in respect of children.**—Allowances granted by the Minister of Pensions under a Royal Warrant, Order in Council, or order administered by him to widows of members of the naval, military, or air forces of the Crown in respect of their children shall not be reckoned in computing the income of such widows for any of the purposes of the Income Tax Acts.

**28. Relief from income tax in respect of national savings certificates, and Ulster savings certificates.**—(1) Subsection (1) of section forty-seven of the Income Tax Act, 1918, which, as amended by section seven of the Savings Banks Act, 1920 [10 & 11 Geo. 5, c. 12], grants relief from income tax in respect of any national savings certificates issued by the Treasury through the Post Office under which the purchaser, by virtue of an immediate payment of fifteen shillings and sixpence becomes entitled after five years to receive the sum of one pound, shall apply to any such certificates so issued whether the price of issue of the certificates is fifteen shillings and sixpence or any other sum and whether the certificates mature for payment on the expiration of five years or any other period.

(2) All enactments giving relief from income tax in respect of the accumulated interest payable in respect of national saving certificates shall extend to the accumulated interest payable in respect of any Ulster savings certificates issued by the Government of Northern Ireland and held by persons resident and domiciled in Northern Ireland, whether issued for the same price and whether maturing for payment on the expiration of the same period as national savings certificates or not.

**29. Interest paid on arrears of excess profits duty not to be allowed as a deduction.**—In the computation of any profits or income for the purposes of assessment to income tax no deduction shall be allowed in respect of any interest paid on arrears of excess profits duty or munitions exchequer payments.

**30. Allocation of income to charity where residue is not paid to charity until after one year of death of testator.**—(1) Where a charity is entitled to the residuary estate of any testator and the residue or some part thereof is not paid to the charity until after the expiration of one year after the death of the testator, there shall be treated as being income of the charity for the purposes of the Income Tax Acts such portion of the income, if any, which accrued to the estate in respect of the period between the expiration of the said year and the date of payment as would have accrued to the charity if the residue, or the said part of the residue, had been paid to the charity immediately after the expiration of the said year and the assets constituting the estate (excluding any part thereof specifically bequeathed or devised) on that date had then been apportioned rateably as between the creditors, legatees (other than specific legatee), and persons entitled to the residue.

(2) If any question arises as to the amount which ought by virtue of this section to be treated as being income of a charity or as to the amount of income tax which has been paid or borne in respect of any income which is by virtue of this section treated as being income of a charity, the Special Commissioners shall hear and determine the case in like manner as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

(3) In this section the expression "charity" means any body of persons or trust established for charitable purposes only, and references to the residuary estate of a testator include references to a share of residuary estate.

**31. Allowances in respect of contributions towards expenses of superannuation benefits.**—(1) Where, in pursuance of any public general Act of Parliament, superannuation allowances or gratuities are payable to individuals holding an office or employment on their retirement or to their legal personal representatives on their death, and such individuals are by any such Act required to make contributions towards the expenses of providing the allowances and gratuities, the sums so contributed by any such individual for any year may be deducted from the amount of his emoluments to be assessed to income tax for that year:

Provided that, where any such sums are to be repaid to any individual under the authority of any such Act as aforesaid, the person by or through whom the sums are to be repaid shall deduct from those sums an amount equal to the total amount of the income tax which would have been paid in respect of those sums if they had not been allowed as deductions under the authority of this section, and if those sums are repaid with any interest thereon, shall also deduct therefrom an amount equal to the total amount of the income tax which would have been paid in respect of that interest if it had actually been paid to the individual in the several years in respect of which it is paid, and the provisions of paragraph (2) of rule twenty-one of the General Rules shall apply in regard to the accounting for and recovery of the amounts so deducted.

(2) Any person having the custody of the books containing the assessments to income tax on any individual for the several years in respect of which sums are repayable to him as aforesaid shall, notwithstanding anything contained in any declaration made by that person in pursuance of section eighty-nine of the Income Tax Act, 1918, on application by the person by or through whom the sums are repayable, furnish to him such particulars as may be necessary to enable him to compute the appropriate amount of income tax to be deducted and paid over by him as aforesaid.

**32. Determination of annual values for purposes of income tax under Schedule A and inhabited house duty for 1923-24.**—(1) The provisions of this section shall have effect for the purpose of enabling the annual values of properties for the purposes of assessments to income tax under No. I and No. II. of Schedule A and to inhabited house duty for the year 1923-24 (in this Act referred to as "the said annual values," ) to be determined during the year 1922-23, and of enabling the said assessments for the year 1923-24 to be made as soon as may be after the commencement of that year, and for that purpose all things necessary to be done for determining the said annual values, and all things preliminary to the making of any such assessments may be done, as well at any time after the commencement of this Act and before the sixth day of April, nineteen hundred and twenty three, as at any time after the last-mentioned date.

(2) For the purposes aforesaid, the provisions set out in the Second Schedule to this Act shall have effect.

(3) The assessments to income tax under No. I. and No. II. of Schedule A and to inhabited house duty for the year 1923-24 shall be made by the General Commissioners on the basis of the annual values determined under this section for the year 1922-23.

Provided that any person, who proves to the satisfaction of the General Commissioners that the annual value for the year 1923-24 of any land, tenement, hereditament, or heritage, or of any inhabited dwelling-house, in respect of which he has been assessed for the year 1923-24 is less than the annual value on which the assessment was based, shall be entitled to a reduction of the assessment to an amount based on the annual value for the year 1923-24, estimated in accordance with the rules applicable to assessments under No. I. or No. II. of Schedule A or the enactments relating to inhabited house duty, as the case may be.

(4) This section shall not apply as respects Scotland, or Ireland, or as respects lands, tenements or heritages in the Administrative County of London with respect to which the valuation list under the Valuation (Metropolis) Act, 1869, is by that Act made conclusive for the purposes of income tax and inhabited house duty, or to the appointment of assessors within the said county.

**33. Parishes for purposes of assessment, 1923-24.**—The parishes for which assessments of income tax and inhabited house duty are to be made for the year 1923-24, and for which assessors and collectors are to be appointed for that year shall, in England (elsewhere than in the Administrative County of London), be the parishes as existing for the purposes of poor law administration at the commencement of this Act.

#### PART III.—EXCESS PROFITS DUTY.

**34. Payment of excess profits duty by instalments.**—(1) Subject to the provisions of this section, the Commissioners of Inland Revenue may, on an application made in that behalf by any person by whom any excess profits duty under the Finance (No. 2) Act, 1915 (in this Part of this Act referred to as "the principal Act"), is payable, authorise the payment of the duty by means of quarterly instalments within the period of five years ending on the thirty-first day of December, nineteen hundred and twenty-six.

(2) The Commissioners of Inland Revenue may, as a condition of granting an application under this section, require the applicant to give such security for the due payment of the instalments as they think fit, and may, at their discretion at any time, revoke any authorisation granted under this section but in any case in which such security as aforesaid has been given, only after three months' notice has been given by the Commissioners of their intention to revoke the authorisation.

(3) If any person is aggrieved by the refusal of the Commissioners of Inland Revenue to grant an application made by him under this section or by the revocation of an authorisation granted to him under this section, he may, at any time within fourteen days after the date on which notice is given to him by the Commissioners of the refusal or revocation, as the case may be, appeal against the refusal or revocation to the Special Commissioners of Income Tax and the decision of the Special Commissioners on the appeal shall be final.

Any person intending to appeal to the Special Commissioners under the foregoing provision shall give notice of his intention to the Commissioners of Inland Revenue.

(4) Simple interest at the rate of four and a half per cent. per annum, without deduction for income tax, shall be chargeable on excess profits duty as from the date on which the duty becomes payable, or in the case of duty which became payable on or before the first day of January, nineteen hundred and twenty-two, as from that date.

Any such interest shall be payable in money and shall be recoverable as a debt due to His Majesty from the person by whom the duty in respect of which the interest is charged is payable.

(5) Any instalments of excess profits duty and any interest on arrears of excess profits duty payable by any person under this section shall be paid on such dates as the Commissioners of Inland Revenue may fix.

(6) For the purposes of this section, any reduction made after the first day of January, nineteen hundred and twenty-two, in the amount of an assessment to excess profits duty shall, subject as hereinafter provided, be deemed to have been made as on that date or as on the date on which the duty under that assessment became payable, whichever date is the later:

Provided that any reduction of the amount of duty payable, made in pursuance of the provisions of Part II. or Part III. of the Second Schedule to the Finance Act, 1921 [11 & 12 Geo. 5, c. 32], shall have effect as from the thirty-first day of August, nineteen hundred and twenty-three, and the

thirty-first day of August, nineteen hundred and twenty-five, respectively, or from the date at which the claim under those provisions could have been proved, whichever is the earlier.

(7) In valuing any stock or bonds transferred in satisfaction of excess profits duty under section thirty-four of the Finance Act, 1917 [7 & 8 Geo. 5, c. 31], no account shall be taken for the purpose of the deduction to be made under proviso (a) of sub-section (4) of the said section of any interest accruing due after the thirty-first day of December, nineteen hundred and twenty-one.

(8) For the purposes of this section, excess profits duty shall be deemed to become payable on the expiration of three months from the date on which the assessment to duty is made.

(9) This section shall, subject to the necessary modifications, apply to munitions exchequer payments as it applies to excess profits duty.

(10) This section shall be deemed to have had effect as from the first day of January, nineteen hundred and twenty-two.

**35. Right of appeal as to amount of deficiencies or losses.**—Subsection (5) of section forty-five of the principal Act (which allows an appeal against an assessment of excess profits duty) shall apply as respects the determination by the Commissioners of Inland Revenue of the amount of any deficiencies or losses in respect of which a person carrying on a trade or business is entitled to a repayment of or a set-off against excess profits duty as it applies to the amount of an assessment made upon him by the said Commissioners.

**36. Amendment of s. 38 (3) of 5 & 6 Geo. 5, c. 89.**—Where the interest or any part of the interest in any trade or business of any person, being the proprietor thereof or a partner therein, passes by a voluntary disposition inter vivos made by that person or under his will or on his intestacy to the husband or the wife or any ancestor or lineal descendant of that person, that last-named person shall, for the purposes of subsection (3) of section thirty-eight of the principal Act (which allows a repayment of or set-off against excess profits duty in case of a deficiency or loss), be treated as if he were the person from whom the interest passed.

**37. Interpretation.**—In this Part of this Act references to the principal Act or to any provisions of that Act shall be construed as references to that Act or to those provisions as amended and extended by any subsequent enactment, including this Part of this Act.

#### PART IV.—NATIONAL DEBT.

**38. Suspension of new sinking fund.**—In the financial year ending the thirty-first day of March, nineteen hundred and twenty-three, that portion of the permanent charge for the national debt, which is not required for the annual charge directed by the National Debt and Local Loans Act, 1887 [50 & 51 Vict. c. 16], or any other Act, to be paid out of that charge, shall not be paid.

**39. Continuance during current financial year of s. 58 of 10 & 11 Geo. 5, c. 18.**—Section fifty-eight of the Finance Act, 1920 (which provides that amounts applied out of the Revenue in paying off debt are to be deemed to be expenditure within the meaning of sections four and five of the Sinking Fund Act, 1875 [38 & 39 Vict. c. 45]), shall apply as respects the current financial year as it applied as respects the financial year ending on the thirty-first day of March, nineteen hundred and twenty-one.

**40. Power to borrow moneys required for certain sinking funds.**—(1) The Treasury may at any time, if they think fit, raise money in the same manner in which they are authorised to raise money under subsection (1) of section one of the War Loan Act, 1919 [9 & 10 Geo. 5, c. 27], for any of the following purposes, that is to say:—

(a) for providing during the financial year ending the thirty-first day of March, nineteen hundred and twenty-three, for the issue out of the Consolidated Fund of the sums to be issued thereout under section forty-five of the Finance Act, 1921, for the purposes of the sinking fund established under that section in connection with the three and one-half per cent. Conversion Loan; and

(b) for providing during the said financial year such sums as are required in connection with four per cent. Victory Bonds, or stock or bonds forming part of the four per cent. Funding Loan, 1960-1990, which are transferred in satisfaction of death duties, or as are required under section two of the War Loan Act, 1919, to be issued to the National Debt Commissioners for the purposes of the sinking funds established in pursuance of that section in connection with the four per cent. Victory Bonds and four per cent. Funding Loan, 1960-1990; and

(c) for providing for the repayment to the Consolidated Fund of all or any part of the sums issued out of that fund for the purposes aforesaid.

(2) This section shall be construed as one with section one of the War Loan Act, 1919, and the provisions of that section shall have effect accordingly.

**41. Charge on Consolidated Fund under s. 24 (1) of 10 & 11 Geo. 5, c. 67, to extend to the growing produce of Fund.**—Subsection (1) of section twenty-four of the Government of Ireland Act, 1920, which provides that certain sums are to be charged on the Consolidated Fund of the United Kingdom, shall have effect as if for the words "the Consolidated Fund of the United Kingdom" there were substituted the words "the Consolidated Fund of the United Kingdom or the growing produce thereof."

## PART V.—MISCELLANEOUS AND GENERAL.

42. *Temporary continuance of exemption from corporations profits tax of profits of public utility companies, and building societies.*—The exemption from corporation profits tax given by the proviso to subsection (2) of section fifty-two of the Finance Act, 1920, shall be continued from the thirty-first day of December, nineteen hundred and twenty-two, until the thirty-first day of December, nineteen hundred and twenty-five, and in section fifty-eight of the Finance Act, 1921, for the words "the thirty-first day of December, nineteen hundred and twenty-two" there shall be substituted the words "the thirty-first day of December, nineteen hundred and twenty-five."

43. *Profits of charitable and other companies registered without word "limited" exempted from corporation profits tax.*—(1) Corporation profits tax shall not be charged on the profits of an association which is registered under section twenty of the Companies (Consolidation) Act, 1908 [8 Edw. 7. c. 69], as a company with limited liability without the addition of the word "limited" to its name, so long as it continues so registered, or on the profits of a company which is established solely for the advancement of religion or education and which under its memorandum or articles of association is prohibited from distributing any part of its profits to its members.

(2) This section shall be deemed to have had effect as from the first day of January, nineteen hundred and twenty-two.

44. *Option as to payment of estate duty in certain cases.*—Where any land or chattels settled by Act of Parliament or Royal Grant pass on the death of any person, any estate duty payable in respect thereof, or of any interest therein, under subsection (5) of section five of the Finance Act, 1894, may, at the option of the person authorised or required to pay the same, and notwithstanding anything in the said section or in the Act of Parliament or Royal Grant settling the said land or chattels, be treated as a charge on and be raised and paid out of the corpus of such land or chattels, and the provisions of section nine of the Finance Act, 1894, dealing with the charge of estate duty and the facilities for raising that duty shall apply.

The option given by this section shall be exercisable in any case in which estate duty in respect of land or chattels, or any interest therein, to which subsection (5) of section five of the Finance Act, 1894, applies, is unpaid at the date of the passing of this Act, irrespective of the date of the death which gave rise to the claim for that duty.

45. *Extension to Malay States of s. 20 of 57 & 58 Vict. c. 30.*—(1) Section twenty of the Finance Act, 1894 (which relates to payment of death duties where death duties are payable in certain British Possessions), shall have effect as if the Malay States were a British Possession within the meaning of that section.

(2) For the purposes of this section, "the Malay States" means the Federated Malay States and Johore, Kedah, Perlis, Kelantan, Trengganu, and Brunei.

46. *Reduction of amount of composition for stamp duties in certain cases.*—The stamp duty chargeable by way of composition for stamp duty under section one hundred and fourteen of the Stamp Act, 1891 [54 & 55 Vict. c. 39], as extended or amended by section thirty-nine of the Finance Act, 1894, section five of the Finance Act, 1898, and section thirty-seven of the Finance Act, 1920, shall, in the cases hereinafter mentioned, be reduced so as to be—

(a) when the period within which the stock is to be redeemed or paid off, or during which annual or other payments in respect of the redemption or payment off of the stock are required to be made, does not exceed twenty years from the date of the composition, one shilling for every ten pounds and any fraction of ten pounds of the nominal amount of the stock inscribed at the date of the composition; and

(b) when the said period exceeds twenty years but does not exceed forty years from the said date, two shillings for every such ten pounds or fraction of ten pounds.

47. *Alkali, &c., works stamp duty.*—Subsection (6) of section nine of the Alkali, &c., Works Regulation Act, 1906 [6 Edw. 7. c. 14], (which relates to the stamp duty chargeable on certificates of registration of alkali and other works), shall have effect as if for the words "five pounds" there were substituted the words "ten pounds," and for the words "three pounds" there were substituted the words "six pounds":

Provided that nothing in this section shall affect the stamp duty chargeable in respect of any certificate of registration issued before the first day of April, nineteen hundred and twenty-three.

48. *Repayments in respect of spoiled and unused stamps.*—The Postmaster-General, in the exercise of any powers for the time being vested in him in relation to spoiled, unused or misused stamps, may make repayments or give other stamps in return for any spoiled, unused or misused stamps either of a value equal to the face value thereof, or, if he thinks fit, of any less value.

49. *Construction, short title, application, and repeal.*—(1) Part I. of this Act, so far as it relates to duties of customs, shall be construed together with the Customs (Consolidation) Act, 1876 [39 & 40 Vict. c. 36], and any enactments amending that Act, and, so far as it relates to duties of excise, shall be construed together with the Acts which relate to the duties of excise and the management of those duties.

Part II. of this Act shall be construed together with the Income Tax Acts and the Acts relating to inhabited house duty.

Part III. of this Act shall be construed together with Part III. of the Finance (No. 2) Act, 1915.

(2) This Act may be cited as the Finance Act, 1922.

(3) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(4) The enactments set out in the Third Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule, but this repeal shall not, as respects the enactments mentioned in Part II. of that schedule, come into operation until the sixth day of April, nineteen hundred and twenty-three.

## SCHEDULES.

## FIRST SCHEDULE.

## [Section 21.]

1. A company which is aggrieved by any direction given under section twenty-one of this Act may appeal to the Special Commissioners against the direction by giving notice of appeal to the Clerk to the Commissioners within twenty-one days after the date of the notice, and the Commissioners shall hear and determine the appeal, subject as herein provided, and the provisions of the Income Tax Acts relating to appeals against assessments shall, with any necessary modification, apply for the purposes of an appeal under this provision.

2. If either the Company or the Commissioners of Inland Revenue are dissatisfied with the determination of the Special Commissioners on any appeal under the foregoing provisions of this schedule, they may, on giving notice to the Clerk to the Special Commissioners within twenty-one days after the determination, require the appeal to be reheard by the Board of Referees and the Special Commissioners shall transmit to the Board any document in their possession which was delivered to them for the purposes of the appeal.

The Board shall rehear and determine the appeal and shall have and exercise the same powers and authorities in relation to the appeal as the Special Commissioners might have and exercise, and the determination of the Board thereon shall be final and conclusive:

Provided that section one hundred and forty-nine of the Income Tax Act, 1918 (which relates to the statement of a case on a point of law) shall apply with the necessary modifications in the case of any such rehearing and determination as it applies in the case of appeals to the General or Special Commissioners under the said Act.

3. The provisions of sub-section (6) of section seven of the Income Tax Act, 1918, relating to the representation of the Crown on super-tax appeals shall, with the necessary modifications, apply to any appeal under this schedule.

4. The Special Commissioners may, at any time by notice in writing, require any company which appears to them to be a company to which section twenty-one of this Act applies, to furnish them with—

(a) a statement of the actual income of the company from all sources, together with a copy of the company's accounts for any year or other period for which the company's accounts have been made up and such particulars as the Commissioners may reasonably require as to the income of the company and the manner in which the income has been dealt with; and

(b) a statement for the same period of the names and addresses and particulars of the respective interests of all members of the company.

5. Where the Special Commissioners have issued a notice requiring a company to furnish them with particulars under paragraph 4 of this schedule as respects any year or other period, and the auditor of the accounts of the company is a member of an incorporated society of accountants, the directors may, if they think fit, make and submit to the auditor such a statutory declaration as is hereinafter mentioned, and in such case the following provisions shall have effect:

(a) The directors of the company shall make a statutory declaration as to—

(i) The amount which they regard, or regarded, as proper to be retained in the business out of the income of that year or other period; and

(ii) The amount (if any) which they propose to recommend for distribution, or which has been distributed; setting out the reasons for such retention and giving such information as will enable the auditor to form an opinion whether the amount (if any) proposed for distribution or distributed, having regard to such requirements as are mentioned in the proviso to sub-section (1) of the said section twenty-one, would be, or was, a reasonable part of the income for such year or other period;

(b) If the auditor—

(i) is satisfied that the information disclosed in the declaration is sufficient to enable him to form an opinion as to whether the proposed distribution or distribution (if any) would be or was a reasonable part of the income for such year or other period as aforesaid; and

(ii) is satisfied that a *prima facie* case is made out by the reasons and information given in the declaration that the proposed distribution or distribution (if any) would be or was reasonable he may so certify:

(c) The certificate, together with the statutory declaration, shall be sent to the Special Commissioners who, unless they see reason to the contrary, shall take no further action in the matter.

6. In computing the actual income from all sources of a company for any year or period, the income from any source shall be estimated in accordance with the provisions of the Income Tax Acts relating to the computation of income from that source; except that the income shall be computed by reference to the income for such year or period as aforesaid and not according to an average of more than one year or by reference to any year or period other than such year or period as aforesaid.

7. If any company fails or refuses on being so required in accordance with the provisions of this schedule to furnish a statement of actual income from all sources or renders a statement with which the Special Commissioners are not satisfied, the Commissioners may make an estimate of that income to the best of their judgment.

8. The apportionment of the actual income from all sources of the company shall be made by the Special Commissioners in accordance with the respective interests of the members, and the income as apportioned to each member shall, for the purposes of super-tax, be deemed to represent his income from his interest in the company for the year or other period and shall be included in the statement of his total income or in an amended statement of total income which the Special Commissioners are hereby authorised to require and shall be deemed to be the highest part of that income.

9. The income apportioned to a member of a company under section twenty-one of this Act shall, for the purposes of super-tax, be deemed to have been received by him at the date to which the accounts of the company for the year or period were made up.

10. Notice of any apportionment made by the Special Commissioners shall be given by serving on the company a statement showing the amount of the actual income from all sources adopted by them for the purposes of section twenty-one of this Act, and either the amount apportioned to each member or the amount apportioned to each class of shares, as they think fit.

A company which is aggrieved by any notice of apportionment shall be entitled to appeal to the Special Commissioners on giving notice to their clerk within twenty-one days after the date of the notice, and those Commissioners shall hear and determine the appeal and all the provisions of the Income Tax Acts and any regulations made thereunder relating to appeals against assessments and to cases to be stated for the opinion of the High Court shall, with any necessary modification, apply for the purposes of any such appeal.

11. Any person in whose name any shares of a company are registered shall, if required by notice in writing by the Special Commissioners, state whether or not he is the beneficial owner of those shares, and if not the beneficial owner of those shares or any of them shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.

If any person on being so required neglects or fails to comply with the notice within the time limited by the notice, he shall be liable to a penalty of twice the amount of super-tax that would be chargeable at the highest rate in respect of the amount of the income apportioned to such shares.

12. In this schedule the expression "Board of Referees" means the Board of Referees for the purposes of Rule 6 of the rules applicable to Cases I. and II. of Schedule D.

## SECOND SCHEDULE.

[Section 32.]

PROCEDURE IN CONNECTION WITH THE DETERMINATION OF ANNUAL VALUES FOR THE PURPOSES OF INCOME TAX UNDER SCHEDULE A. AND INHABITED HOUSE DUTY FOR 1923-24.

(1) The General Commissioners shall, not later than thirty days after the commencement of this Act, appoint persons to be assessors of income tax chargeable under Schedules A. and B. and of inhabited house duty for the year 1923-24, issue the necessary instructions to the assessors so appointed, and appoint a day not later than the thirtieth day of November, nineteen hundred and twenty-two, for the assessors so appointed to appear before them and bring in certificates of their assessments of the said annual values.

(2) General and particular notices shall be issued requiring the statements containing the particulars prescribed by the Income Tax Acts, and the provisions of the Income Tax Acts relating to notices to deliver, the delivery of, and penalties for neglecting to deliver statements and declarations shall apply.

(3) The statements so to be prepared and delivered shall contain particulars relative to the year 1922-23, and the said annual values shall be estimated and determined as for the year 1922-23.

(4) The provisions of sections one hundred and twenty and one hundred and twenty-five of the Income Tax Act, 1918, and of section fifty-two (as amended by subsection (2) of section twenty-three of the Finance Act, 1907), and section fifty-six of the Taxes Management Act, 1880, shall, with the necessary modifications, apply with regard to the annual values to be estimated and determined in accordance with the foregoing provisions, and the General Commissioners shall cause notice of such assessments of annual values to be given.

(5) The provisions of subsections (1) and (2) of section one hundred and thirty-four of the Income Tax Act, 1918, and the provisions of the Income Tax Acts relating to appeals against assessments to income tax under Schedule A shall, with the necessary modifications, apply to notices to be

given and to appeals in respect of annual values assessed under the foregoing provisions for the purposes of income tax under Schedule A; and the relevant provisions of the Acts relating to inhabited house duty shall apply to notices to be given and to appeals in respect of annual values so assessed for the purposes of that duty.

## THIRD SCHEDULE.

[Section 49.]

ENACTMENTS REPEALED.

### PART I.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Geo. 5, c. 40.	The Income Tax Act, 1918.	Rule 2 of the Rules applicable to Case III. of Schedule D. In Rule 1 of the Rules applicable to Schedule E. the words "except as otherwise provided," and Rule 4 of the same Rules.

### PART II.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Geo. 5, c. 40.	The Income Tax Act, 1918.	Paragraph (3) of Rule 8 of No. V. in Schedule A.
9 & 10 Geo. 5, c. 32.	The Finance Act, 1919.	Section nineteen.
10 & 11 Geo. 5, c. 18.	The Finance Act, 1920.	Section twenty-nine.

## CHAPTER 18.

### INFANTICIDE ACT, 1922.

An Act to provide that a woman who wilfully causes the death of her newly-born child may, under certain conditions, be convicted of infanticide.

[20th July, 1922.]

Be it enacted, &c. :—

1. *Conviction for infanticide in certain cases.*—(1) Where a woman by any wilful act or omission causes the death of her newly-born child, but at the time of the act or omission she had not fully recovered from the effect of giving birth to such child, and by reason thereof the balance of her mind was then disturbed, she shall, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child.

(2) Where upon the trial of a woman for the murder of her newly-born child, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission she had not fully recovered from the effect of giving birth to such child, and that by reason thereof the balance of her mind was then disturbed, the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a newly-born child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section sixty of the Offences against the Person Act, 1861 [24 & 25 Vict. c. 100, s. 69].

(4) The said section sixty shall apply in the case of the acquittal of a woman upon indictment for infanticide as it applies upon the acquittal of a woman for murder, and upon the trial of any person over the age of sixteen for infanticide it shall be lawful for the jury, if they are satisfied that the accused is guilty of an offence under section twelve of the Children's Act, 1908 [8 Edw. 7, c. 67], to find the accused guilty of such an offence, and in that case that section shall apply accordingly.

2. *Short title and extent.*—(1) This Act may be cited as the Infanticide Act, 1922.

(2) This Act shall not extend to Scotland or Ireland.

## CHAPTER 19.

### GAMING ACT, 1922.

An Act to repeal section two of the Gaming Act, 1835. [20th July, 1922.]

Be it enacted, &c. :—

1. *Repeal of 5 & 6 Wm. 4. c. 41, s. 2.*—Section two of the Gaming Act, 1835 (which makes money paid to the indorsee, holder, or assignee of securities given for consideration arising out of certain gaming transactions

recoverable from the person to whom the securities were originally given) is hereby repealed. No trustee, executor, or other person acting in a representative or fiduciary capacity shall be under any obligation to make or enforce any claim under the said section in respect of any transaction completed before the passing of this Act, or be liable for any breach of duty by reason of any failure to do so. No action for the recovery of money under the said section shall be entertained in any court.

2. *Short title.*—This Act may be cited as the Gaming Act, 1922.

## CHAPTER 20.

### INDIAN HIGH COURTS ACT, 1922.

An Act to make further provision with respect to the qualifications of Judges of High Courts in British India. [20th July, 1922.]

Be it enacted, &c. :—

1. *Amendment of s. 101 (3) (d) of the Government of India Act.*—Subsection (3) of section one hundred and one of the Government of India Act (which relates to the qualifications to be possessed by a judge of a high court) shall have effect, and shall, as from the first day of April nineteen hundred and twenty-one, be deemed to have had effect, as though the following paragraph were substituted for paragraph (d) of that subsection :—

"(d) a person who has been a pleader of one of the high courts referred to in this Act, or of any court which is a high court within the meaning of clause (24) of section three of the Act of the Indian Legislature known as the General Clauses Act, 1897, for an aggregate period of not less than ten years."

2. *Short title.*—This Act may be cited as the Indian High Courts Act, 1922.

## CHAPTER 21.

### TREATIES OF WASHINGTON ACT, 1922.

An Act for enabling effect to be given to two Treaties signed at Washington on behalf of His Majesty and certain other Powers. [20th July, 1922.]

Whereas at Washington on the sixth day of February, nineteen hundred and twenty-two, two treaties were signed on behalf of His Majesty, the one (being a Treaty for the Limitation of Naval Armament) containing among other provisions, the provisions set out in the First Schedule to this Act, and the other (being a treaty to protect neutrals and non-combatants at sea in time of war and to prevent use in war of noxious gases and chemicals) containing among other provisions the provisions set forth in the Second Schedule to this Act :

And whereas it is expedient to give effect to the provisions so set forth in manner hereafter appearing :

Be it therefore enacted, &c. :—

1. *Restriction on building, &c., vessels of war.*—(1) No person shall without a licence from the Admiralty—

(a) within any part of His Majesty's Dominions to which this Act applies, build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war ; or

(b) despatch or deliver, or allow to be despatched or delivered, from any place within any part of His Majesty's Dominions to which this Act applies any ship which has been so built, altered, armed, or equipped as aforesaid either entirely or partly within His Majesty's Dominions :

Provided that a licence for any such purpose shall not be refused by the Admiralty unless it appears to the Admiralty necessary to do so for the purpose of securing the observance of the obligations imposed by the first mentioned Treaty, and where a licence is granted subject to conditions, the conditions shall be such only as may appear necessary to the Admiralty for the purpose aforesaid.

(2) An application for a licence under this section shall be accompanied by such designs and particulars as the Admiralty may require.

(3) The Admiralty may, by warrant, empower any person to enter any dockyard, shipyard, or other place, and to make inquiries respecting any ship being built, altered, armed, or equipped therein, with a view to ascertaining whether any ship is being built, altered, armed, or equipped contrary to this Act, and to search any such ship.

(4) If any question arises as to whether a ship is a vessel of war, or whether any alteration, arming, or equipment of a ship is such as to adapt her for use as a vessel of war, the question shall be referred to and determined by the Admiralty whose decision shall be final.

2. *Legal proceedings.*—(1) If any person contravenes the foregoing provisions of this Act, or contravenes or fails to comply with any condition subject to which a licence under this Act is granted, he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding two years or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine, and the ship in respect of which the offence is committed and her equipment shall be liable to forfeiture to His Majesty.

(2) Where the person guilty of such an offence is a company or corporation, every director and manager of the company or corporation shall be guilty of the like offence and liable to the like penalties, unless he proves that the Act or omission constituting the offence took place without his knowledge and consent.

(3) Where any such offence has been committed by any person by reason whereof a ship or the equipment thereof has become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, for the forfeiture in a court having jurisdiction in Admiralty ; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

(4) Section seventy-six of the Merchant Shipping Act, 1894 [57 & 58 Vict., c. 60] (which relates to the forfeiture of ships) as amended by any subsequent enactment, shall apply to ships which have become subject to forfeiture under this Act in like manner as it applies to ships subject to forfeiture under Part I of that Act.

(5) If the Admiralty are satisfied that there is reasonable ground for believing that a ship has been or is being built, altered, armed, or equipped contrary to this Act, or about to be despatched or delivered in contravention of this Act, the Admiralty shall have power to issue a warrant ordering any such officer as is mentioned in the said section seventy-six to seize and search the ship, and to detain the ship, and section six hundred and ninety-two of the Merchant Shipping Act, 1894, relating to the detention of ships under that Act, shall apply to the detention of ships under this Act.

(6) No proceedings shall be instituted in respect of any such offence as aforesaid without the consent of the Admiralty.

3. *Saving of 33 & 34 Vict. c. 90.*—The foregoing provisions of this Act shall be in addition to and not in derogation of the provisions of the Foreign Enlistment Act, 1870.

4. *Trial and punishment for violation of rules as to warfare against commerce.*—Any person in the service of any Power who violates any of the rules contained in Article I set forth in the Second Schedule to this Act, whether or not such person is under a governmental superior, shall be deemed to have violated the laws of war, and shall be liable to trial and punishment as if for an act of piracy, and if found within His Majesty's Dominions, may be brought to trial before any civil or military tribunal who would have had jurisdiction to deal with the case if the act had been an act of piracy.

5. *Extent of Act.*—(1) This Act shall extend to the whole of His Majesty's Dominions, except India and the self-governing Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, and Newfoundland, and, after the constitution of the Irish Free State, the Irish Free State :

Provided that, in the application of this Act to any part of His Majesty's Dominions outside the United Kingdom, for references to "the Admiralty" there shall be substituted references to "the governor of the possession."

(2) His Majesty may, by Order in Council, extend the provisions of this Act to any British protectorate, subject to such modifications as may be contained in the Order.

6. *Short title and commencement.*—(1) This Act may be cited as the Treaties of Washington Act, 1922.

(2) This Act shall come into operation on such day as may be fixed by Order of His Majesty in Council.

## SCHEDULES.

### FIRST SCHEDULE.

[Preamble.]

#### ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT. ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

#### ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

#### ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

\* \* \* \* \*

#### ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

ARTICLE XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch (152 millimetres) calibre.

ARTICLE XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers; provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

ARTICLE XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, Section 1 (b), (4) and (5).

ARTICLE XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power.

CHAPTER II.—PART 3.—SECTION 1.

(b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:—

(4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement.

(5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion.

PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

*Capital Ship.*

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

*Aircraft Carrier.*

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X as the case may be.

*Standard Displacement.*

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

SECOND SCHEDULE.

[Section 4].

ARTICLES OF TREATY TO PROTECT NEUTRALS AND NON-COMBATANTS AT SEA IN TIME OF WAR, AND TO PREVENT USE IN WAR OF NOXIOUS GASES AND CHEMICALS.

ARTICLE I.

The Signatory Powers declare that among the rules adopted by civilised nations for the protection of the lives of neutrals and non-combatants at sea in time of war, the following are to be deemed an established part of international law:—

1. A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.

A merchant vessel must not be attacked unless it refuse to submit to visit and search after warning, or to proceed as directed after seizure.

A merchant vessel must not be destroyed unless the crew and passengers have been first placed in safety.

2. Belligerent submarines are not under any circumstances exempt from the universal rules above stated; and if a submarine cannot capture a merchant vessel in conformity with these rules the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

ARTICLE III.

The Signatory Powers, desiring to ensure the enforcement of the humane rules of existing law declared by them with respect to attacks upon and the seizure and destruction of merchant ships, further declare that any person in the service of any Power who shall violate any of those rules, whether or not such person is under orders of a governmental superior, shall be deemed to have violated the laws of war and shall be liable to trial and punishment as if for an act of piracy and may be brought to trial before the civil or military authorities of any Power within the jurisdiction of which he may be found.

CHAPTER 22.

SUMMER TIME ACT, 1922.

An Act to provide for the time in Great Britain, Northern Ireland, the Channel Islands, and the Isle of Man being in advance of Greenwich mean time during a certain period of the year. [20th July, 1922.]

Be it enacted, &c.:—

1. *Advance of time during certain period.*—(1) The time for general purposes in Great Britain shall, during the period of summer time, be one hour in advance of Greenwich mean time.

(2) Wherever any reference to a point of time occurs in any enactment, Order in Council, order, regulation, rule, byelaw, deed, notice or other document whatsoever, the time referred to shall, during the period of summer time, be deemed, subject as hereinafter provided, to be the time as fixed for general purposes by this Act.

(3) Nothing in this Act shall affect the use of Greenwich mean time for purposes of astronomy, meteorology, or navigation, or affect the construction of any document mentioning or referring to a point of time in connection with any of those purposes.

2. *Application to Northern Ireland, Channel Islands and Isle of Man.*—

(1) This Act shall apply to Northern Ireland, the Channel Islands and the Isle of Man in like manner as it applies to Great Britain.

(2) For the purposes of section six of the Government of Ireland Act, 1920 [10 & 11 Geo. 5, c. 67], this Act in its application to Northern Ireland shall be deemed to be an Act passed before the appointed day.

3. *Interpretation, short title and duration.*—(1) For the purposes of this Act, the period of summer time shall be taken to be the period beginning at two o'clock, Greenwich mean time, in the morning of the day next following the third Saturday in April, or, if that day is Easter Day, the day next following the second Saturday in April, and ending at two o'clock, Greenwich mean time, in the morning of the day next following the third Saturday in September.

(2) This Act may be cited as the Summer Time Act, 1922.

(3) This Act shall continue in force until the thirty-first day of December, nineteen hundred and twenty-three, and no longer, unless Parliament otherwise determines, and nothing in this Act shall affect the operation of the Summer Time Act, 1916 [6 & 7 Geo. 5, c. 14], or any Order in Council made under that Act.

CHAPTER 23.

HARBOURS, DOCKS, AND PIERS (TEMPORARY INCREASE OF CHARGES) ACT, 1922.

An Act to amend and extend the duration of the Harbours, Docks, and Piers (Temporary Increase of Charges) Act, 1920. [20th July, 1922.]

Be it enacted, &c.:—

1. *Application of the principal Act to railway docks.*—(1) Proviso (b) of subsection (1) of section one of the Harbours, Docks, and Piers (Temporary Increase of Charges) Act, 1920 [10 & 11 Geo. 5, c. 21] (hereinafter referred to as the principal Act) shall not apply to any port, harbour, dock or pier forming part of the undertaking of a railway company, but in considering any modification of the statutory provisions regulating the charges to be made by any railway company in respect of any such port, harbour, dock

or pier, regard shall also be had to the charges in force at similar ports, harbours, docks or piers (whether forming part of the undertaking of a railway company or not), and no modification of such statutory provisions shall be authorised which would increase the charges beyond such amounts as the railway company were at the passing of this Act entitled to charge by virtue of section three of the Ministry of Transport Act, 1919 [9 & 10 Geo. 5, c. 50].

(2) No order shall be made under the principal Act as amended by this Act modifying as respects any period after the fifteenth day of February, nineteen hundred and twenty-three, any statutory provisions regulating the charges to be made in respect of any port, harbour, dock, or pier undertaking, unless an application for an order is made to the Minister of Transport before the first day of November, nineteen hundred and twenty-two, and any order made on any such application may modify such provisions not only as respects a period after, but also as respects the period up to and including the said fifteenth day of February, and may revise the power of charging authorised by any previous order made under the principal Act:

Provided that this provision shall not apply as respects orders to be made by way of renewal, whether with or without modification, of orders in force after the said fifteenth day of February.

3. *Short title, construction, extent, and duration.*—(1) This Act may be cited as the Harbours, Docks, and Piers (Temporary Increase of Charges) Act, 1922, and the principal Act and this Act may be cited together as the Harbours, Docks, and Piers (Temporary Increase of Charges) Acts, 1920 to 1922.

(2) No order made under the principal Act, as amended by this Act, relating to the charges of the undertakings covered by this Act shall be made so as to remain operative for a longer period than twelve months, but shall be renewable with or without modification by a further order.

(3) The principal Act, as amended by this Act, shall have effect and be deemed always to have had effect as if the expression "pier" included a wharf, quay or jetty.

(4) This Act shall not extend to Ireland.

(5) The principal Act, as amended by this Act, shall have effect until the fifteenth day of February, nineteen hundred and twenty-five, and subsection (4) of section eighty of the Railways Act, 1921 [11 & 12 Geo. 5, c. 55] (which continues the rates advisory committee in existence so long as it may be necessary for the purposes of references under the principal Act), shall have effect accordingly.

## CHAPTER 24.

### GOVERNMENT OF NORTHERN IRELAND (LOAN GUARANTEE) ACT, 1922.

An Act to authorise the Treasury to guarantee payment of the principal of and the interest on loans to be raised by the Government of Northern Ireland. [20th July, 1922.]

## CHAPTER 25.

### BRITISH EMPIRE EXHIBITION (AMENDMENT) ACT, 1922.

An Act to remove doubts as to the powers of the Board of Trade under the British Empire Exhibition (Guarantee) Act, 1920. [20th July, 1922.]

Whereas by the British Empire Exhibition (Guarantee) Act, 1920 [10 & 11 Geo. 5, c. 74], power was conferred on the Board of Trade to undertake, subject to the provisions of that Act, to guarantee loss resulting from the holding of a British Empire Exhibition which it was then proposed to hold in London in the year nineteen hundred and twenty-three:

And whereas it is now proposed to hold the said exhibition in or near London in the year nineteen hundred and twenty-four, or as soon thereafter as may be:

And whereas doubts have arisen as to whether the powers of the Board of Trade under the said Act extend to the said exhibition in the altered circumstances:

Be it, therefore, enacted, &c. :—

1. *Powers of the Board of Trade under.*—It is hereby declared that the powers of the Board of Trade under the said Act of 1920 extend to the said exhibition, notwithstanding any such alteration as is hereinbefore referred to in the proposed place and date thereof.

2. *Short title.*—This Act may be cited as the British Empire Exhibition (Amendment) Act, 1922.

## CHAPTER 26.

### ANGLO-PERSIAN OIL COMPANY (PAYMENT OF CALLS) ACT, 1922.

An Act to provide money for the payment of calls on share capital in the Anglo-Persian Oil Company, Limited, acquired under the Anglo-Persian Oil Company (Acquisition of Capital) Amendment Act, 1919, and to amend the law with respect to the application of dividends or interest on capital held in the said Company. [20th July, 1922.]

## CHAPTER 27.

### CANALS (CONTINUANCE OF CHARGING POWERS) ACT, 1922.

An Act for the continuance of Charging Powers in respect of Canal or Inland Navigation Undertakings of which possession was retained or taken by the Minister of Transport under the Ministry of Transport Act, 1919. [20th July, 1922.]

Be it enacted, &c. :—

1. *Extension of period during which charging powers may be continued.*—

(1) In the case of canal or inland navigation undertakings of which possession was retained or taken by the Minister of Transport under the powers contained in section three of the Ministry of Transport Act, 1919 [9 & 10 Geo. 5, c. 50], paragraph (c) of subsection (1) of that section (which continues the powers of making charges directed by the Minister in pursuance of that section) shall have effect as if for the words "for a further period of eighteen months after the expiration of the said period" there were substituted the words "thereafter until the fifteenth day of February, nineteen hundred and twenty-five."

(2) If at any time during the continuance under this Act of the powers of making charges so directed as aforesaid it appears to the Minister that, owing to changes in the cost of labour and materials or other circumstances affecting a canal or inland navigation undertaking, of which possession was so retained or taken as aforesaid, the powers of charging are excessive or insufficient, the Minister may, and, if representations are made to him by a chamber of commerce or agriculture or by any other representative body of traders concerned or by a local authority or by the undertakers, he shall refer the matter to the rates advisory committee constituted under section twenty-one of the Ministry of Transport Act, 1919 [9 & 10 Geo. 5, c. 50], and the Minister may, after considering any report of the committee, make an order revising the powers of charging, so however that the revised maximum charges shall not, in the case of any undertaking, be less than the maximum charges authorised by any statutory provision in force immediately before the directions of the Minister relating to the charges of that undertaking were originally issued, or more than the charges which the undertakers were entitled to make at the passing of this Act.

(3) The provisions of sections two, three, and four of the Harbours, Docks, and Piers (Temporary Increase of Charges) Act, 1920 [10 & 11 Geo. 5, c. 21] (which relate to the proceedings of the Rates Advisory Committee, and the employment of accountants and persons and as to costs, &c., and as to applications for an order, respectively), shall apply to applications for and the making of orders under this Act in like manner as they apply to applications for and the making of orders under that Act.

2. *Short title and extent.*—(1) This Act may be cited as the Canals (Continuance of Charging Powers) Act, 1922.

(2) This Act shall not extend to Ireland.

## CHAPTER 28.

### BREAD ACTS AMENDMENT ACT, 1922.

An Act to amend the enactments relating to the provision of regulations for the making and sale of bread, and for preventing the adulteration of meal, flour, and bread. [20th July, 1922.]

Be it enacted, &c. :—

1. *Amendment of 3 Geo. 4, c. 106, and 6 & 7 Will. 4, c. 37, so as to permit sale or self-raising flour.*—Nothing in the Acts relating to the manufacture or sale of bread within or without the City of London and the liberties thereof shall be deemed to prohibit the addition to any flour of any ingredient or mixture for the purpose of making such flour self-raising or the addition to such self-raising flour of ingredients suitable for the making of cakes or puddings or the sale or offer or exposure for sale of any flour to which any such ingredient or mixture has been added.

2. *Power to make regulations prohibiting or restricting the use of prescribed ingredients.*—The power of the Minister of Health to make regulations under the Public Health (Regulations as to Food) Act, 1907 [7 Edw. 7, c. 32], shall include a power to make regulations prohibiting or restricting the use for the purpose aforesaid of any such ingredient or mixture as may be prescribed, and prescribing the descriptions under which any flour to which any such ingredient or mixture has been added may be sold.

3. *Saving of Sale of Food and Drugs Acts, 1875 to 1907.*—Nothing in this Act shall prejudice or affect the operation of the Sale of Food and Drugs Acts, 1875 to 1907.

4. *Scotland.*—This Act shall apply to Scotland with the substitution for "the Minister of Health" of "the Scottish Board of Health."

5. *Ireland.*—This Act shall not extend to Ireland.

6. *Short title.*—This Act may be cited as the Bread Acts Amendment Act, 1922.

## CHAPTER 29.

### SALE OF TEA ACT, 1922.

An Act to provide for the better protection of the public in relation to the sale of tea. [20th July, 1922.]

Be it enacted, &c. :—

1. *Conditions to be observed on sale of tea.*—(1) A person shall not, either by himself or by any servant or agent, sell by retail any tea, whether

contained in a package or not, otherwise than by net weight, and in ounces or pounds or in multiples of ounces or pounds.

(2) A person shall not, either by himself or by any servant or agent, sell or have in his possession for sale by retail any tea packed ready for sale unless the package bears thereon or on a wrapper band or label affixed thereto a true statement of the net weight of the tea contained in the package.

(3) If any person acts in contravention of this section, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence five pounds, in the case of a second offence fifty pounds, and in the case of a third or subsequent offence one hundred pounds.

(4) This section shall not apply to any sale of less than two ounces of tea, which does not purport to be a sale of two ounces or more, or to any package which contains less than two ounces of tea, and which does not purport to contain two ounces or more.

2. *Power of inspector to weigh packages.*—(1) Where any person has in his possession for sale by retail any tea packed ready for sale, he shall, if so requested by any person duly authorised in that behalf by the local authority, weigh the contents of any package in the presence of that person, or permit that person himself to weigh the contents.

(2) If any person refuses to comply with a request made under this section, or in any other manner obstructs any person duly authorised as aforesaid in the execution of his powers and duties under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

3. *Execution of Act by local authorities.*—(1) For the purposes of this Act, the local authority shall be the local authority for the purposes of the Weights and Measures Acts, 1878 to 1919, and the expenses of a local authority under this Act shall be defrayed in the same manner as the expenses of a local authority under those Acts.

(2) It shall be lawful for a local authority to execute and enforce the provisions of this Act and, except in Scotland, to take proceedings for any offence against this Act.

4. *Defence of warranty.*—The provisions of section twenty-five of the Sale of Food and Drugs Act, 1875 [38 & 39 Vict. c. 63], and of section twenty of the Sale of Food and Drugs Act, 1899 [62 & 63 Vict. c. 51], as set out with the appropriate modifications in the Schedule to this Act are hereby incorporated with this Act and shall apply to proceedings for offences against this Act as they apply to proceedings for offences against the Sale of Food and Drugs Acts, 1875 to 1907.

5. *Saving.*—Nothing in this Act shall affect any right of proceeding against a person under any other enactment or at common law.

6. *Short title and application.*—(1) This Act may be cited as the Sale of Tea Act, 1922.

(2) This Act shall not apply to Ireland.

(3) This Act shall come into operation on the first day of September, nineteen hundred and twenty-two.

#### SCHEDULE.

[Section 4.]

#### PROVISIONS OF SALE OF FOOD AND DRUGS ACTS APPLIED.

(1) If in any proceedings under this Act in respect of any package of tea the defendant proves that he purchased the tea in the package in which he sold it or had it in his possession for the purposes of sale and with a written warranty of the net weight of the tea contained in the package, and that he had no reason to believe, at the time when he sold it or had it in his possession for the purposes of sale, that the package did not comply with the provisions of this Act, he shall be entitled to be discharged from the prosecution.

(2) For the purposes of the foregoing provision, a statement on any package or any wrapper, band or label affixed thereto or delivered therewith shall be deemed to be a warranty.

(3) A warranty shall not be available as a defence to any proceedings under this Act unless the defendant has, within seven days after service of the summons, sent to the prosecutor a copy of such warranty with a written notice stating that he intends to rely on the warranty, and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to such person.

(4) The person by whom such warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(5) A warranty given by a person resident outside the United Kingdom shall not be available as a defence to any proceeding under this Act, unless the defendant proves that he had taken reasonable steps to ascertain and did in fact believe in the accuracy of the statement contained in the warranty.

(6) Where the defendant is a servant of the person to whom a warranty was given, he shall, subject to the provisions hereof, be entitled to rely on the defence hereby allowed in the same way as his employer or master would have been entitled to do if he had been the defendant, provided that the servant further proves that he had no reason to believe that the package of tea did not comply with the provisions of this Act.

(7) Where the defendant in a prosecution under this Act has been discharged under the provisions of this schedule, any proceedings for giving the warranty relied on by the defendant in such prosecution may be taken as well before a court having jurisdiction in the place where the contravention of this Act took place, as before a court having jurisdiction in the place where the warranty was given.

(8) Every person who, in respect of any tea sold by him as principal or agent, gives to the purchaser a false warranty in writing, shall be liable on summary conviction, for a first offence, to a fine not exceeding twenty pounds, for a second offence to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred pounds, unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

#### CHAPTER 30.

##### UNEMPLOYMENT INSURANCE (No. 2) ACT, 1922.

An Act to amend section four of the Unemployment Insurance Act, 1922, so far as relates to the third special period mentioned in that Act.

[20th July, 1922.]

Be it enacted, &c. :—

1. *Amendments of s. 4 of 12 & 13 Geo. 5, c. 7.*—(1) The periods for which the Minister of Labour may, under section four of the Unemployment Insurance Act, 1922, authorise a person to receive benefit during the third special period shall be periods not exceeding in the aggregate twenty-two weeks instead of periods not exceeding in the aggregate fifteen weeks, and the prohibition imposed by subsection (5) of the said section four, on the receipt in the third special period of benefit for more than fifteen weeks in the aggregate, shall not apply in the case of benefit authorised by the Minister under that section as amended by this subsection.

(2) The period during which a person who has at any time received benefit under the said section four in the third special period for periods amounting in the aggregate to five weeks is under subsection (2) of that section not to be qualified for the receipt of benefit, shall be reduced from five weeks to one week :

Provided that, where by virtue of the said subsection any person is at the commencement of this Act disqualified for the receipt of benefit in the third special period, he shall continue to be so disqualified until the expiration of five weeks from the date on which he began to be so disqualified, or the expiration of one week from the commencement of this Act, whichever first happens.

2. *Short title and repeal.*—(1) This Act may be cited as the Unemployment Insurance (No. 2) Act, 1922, and shall be construed as one with, and shall be included among the Acts which may be cited together as, the Unemployment Insurance Acts, 1920 to 1922.

(2) This Act shall come into operation on the twentieth day of July, nineteen hundred and twenty-two.

#### CHAPTER 31.

##### UNIVERSITIES (SCOTLAND) ACT, 1922.

An Act to extend the powers of the Courts of the Universities of Scotland in the making of Ordinances for the superannuation and pensioning of Principals and Professors, and for the admission of Lecturers and Readers to the Senatus Academicus, and to provide for the admission of Lecturers and Readers to membership of the General Councils of those Universities.

[20th July, 1922.]

#### CHAPTER 32.

##### APPROPRIATION ACT, 1922.

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and twenty-three, and to appropriate the Supplies granted in this Session of Parliament.

[4th August, 1922.]

#### CHAPTER 33.

##### PUBLIC WORKS LOANS ACT, 1922.

An Act to grant money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.

[4th August, 1922.]

#### CHAPTER 34.

##### WHALE FISHERIES (SCOTLAND) (AMENDMENT) ACT, 1922.

An Act to make further provision with respect to the cancelling or suspending of licences under the Whale Fisheries (Scotland) Act, 1907.

[4th August, 1922.]

#### CHAPTER 35.

##### CELLULOID AND CINEMATOGRAPH FILM ACT, 1922.

An Act to make better provision for the prevention of fire in premises where raw celluloid or cinematograph film is stored or used.

[4th August, 1922.]

Be it enacted, &c. :—

1. *General safety provisions.*—(1) No premises shall be used for any purpose to which this Act applies—

(a) unless the occupier has furnished to the local authority in writing a statement of his name, the address of the premises, and the nature of the business there carried on ;

(b) unless the premises are provided with such means of escape in case of fire as the local authority may reasonably require, and such means of escape are maintained in good condition and free from obstruction;

(c) if the premises are situated underneath premises used for residential purposes;

(d) if the premises are so situated that a fire occurring therein might interfere with the means of escape from the building of which they form part or from any adjoining building;

(e) where the premises form part of a building, unless such part either—

(i) is separated from any other part of the building by fire-resisting partitions (including fire-resisting ceilings and floors) and fire-resisting self-closing doors; or

(ii) is so situated and constructed that a fire occurring therein is not likely to spread to other parts of the building, and its use for the purposes to which this Act applies is sanctioned in writing by the local authority and any conditions attached to such sanction are complied with;

(f) unless the regulations set out in the First Schedule to this Act are duly observed;

(g) unless any regulations are duly observed which may be made by the Secretary of State with respect to the use upon the premises of any cinematograph or other similar apparatus.

(2) In the case of premises used for any purpose to which this Act applies at the date of the commencement of this Act, the provisions of this section requiring the occupier to furnish a statement to the local authority shall take effect at the expiration of two months after the commencement of this Act, and the provisions of this section requiring means of escape in case of fire to be provided shall not take effect until the expiration of such period as may be reasonably necessary for enabling the occupier to comply with any requirements of the local authority in that respect.

(3) Any person aggrieved by any requirement of a local authority, or the refusal of the local authority to grant any sanction, or by the conditions attached to any such sanction, may, within seven days after being notified of such requirement, refusal or conditions, appeal to a court of summary jurisdiction, provided that he has given not less than twenty-four hours' notice in writing of such appeal and of the grounds thereof to the local authority, and the court on any such appeal may make such order as appears to the court to be just, including any order for the payment of costs.

(4) The Secretary of State may by order, made in accordance with the provisions contained in the Second Schedule to this Act—

(a) make regulations with respect to the use of any cinematograph or similar apparatus upon any premises used for any purpose to which this Act applies; and

(b) modify or add to the regulations set out in the First Schedule to this Act, and those regulations shall thereupon have effect as so modified or added to.

An order made under this section may apply either generally, or to such classes or descriptions of premises as may be mentioned in the order.

2. *Purposes to which the Act applies.*—The purposes to which this Act applies are—

(1) the keeping or storing of raw celluloid—

(a) in quantities exceeding at any one time one hundredweight; or

(b) in smaller quantities unless kept (except when required to be exposed for the purpose of the work carried on in the premises) in a properly closed metal box or case; and

(2) the keeping or storing of cinematograph film—

(a) in quantities exceeding at any one time twenty reels, or eighty pounds in weight; or

(b) in smaller quantities unless each reel is kept (except when required to be exposed for the purpose of the work carried on in the premises) in a separate and properly closed metal box or case;

Provided that—

(i) for the purposes of this Act, cinematograph film shall be deemed to be kept in any premises where it is temporarily deposited for the purpose of examination, cleaning, packing, re-winding or repair, but celluloid or cinematograph film shall not be deemed to be kept or stored in any premises where it is temporarily deposited whilst in the course of delivery, conveyance or transport; and

(ii) the provisions of this Act shall not, except in the cases referred to, in paragraphs (c), (d) and (e) of subsection (1) of section one thereof, apply to premises to which the Factory and Workshop Acts 1901 to 1920, apply; and

(iii) the provisions of this Act shall not apply to premises licensed in accordance with the provisions of the Cinematograph Act, 1909 [9 Edw. 7, c. 30].

3. *Penalties for infringement of foregoing provisions.*—(1) In the event of any contravention in or in connection with any premises of the foregoing provisions of this Act, the occupier shall be liable on summary conviction to a fine not exceeding fifty pounds and, in the case of a continuing offence, to a further fine not exceeding ten pounds for each day on which the offence is continued after conviction thereof.

(2) In the event of the contravention by any person employed on any premises of any regulation contained in the First Schedule to this Act or

of any regulation made under this Act, he shall be liable on summary conviction to a fine not exceeding five pounds.

(3) The provisions of section one hundred and forty-one of the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22] (which relates to the power of an occupier to exempt himself from fine on the conviction of the actual offender), shall apply to offences under this Act as it applies to offences under that Act.

4. *Execution of Act by local authorities.*—(1) It shall be the duty of local authorities to see that the provisions of this Act are duly complied with.

(2) The expenses incurred by a local authority in the execution of their powers under this Act shall be defrayed in the same manner as expenses incurred in the administration of the Public Health Acts, 1875 to 1908.

(3) The occupier of premises in respect of which a statement is required to be furnished to the local authority shall pay to the local authority when furnishing such statement and on the first day of January of every year thereafter, so long as the premises are used for any purpose to which this Act applies, such fees as the Secretary of State may prescribe.

5. *Power of entry.*—(1) An officer duly authorised by a local authority may, at all reasonable times, enter and inspect any premises which are used or which such officer has reasonable cause to believe are used, wholly or in part for any purpose to which this Act applies.

(2) Every such officer as aforesaid shall be furnished with a certificate of his authorisation by the local authority and when visiting any such premises as aforesaid shall, if so required, produce the said certificate to the occupier of the premises.

6. *Power to take samples.*—An officer duly authorised by a local authority may, at any time, take for analysis sufficient samples of any material which he suspects to be or to contain celluloid.

7. *Obstruction of officers.*—If any person refuses to permit any officer authorised under this Act to enter or inspect any premises, or hinders or obstructs any such officer in the execution of his duty under this Act, or refuses to allow any officer to take samples in pursuance of the last preceding section or to give him facilities for the purpose, that person shall be liable on summary conviction to a fine not exceeding twenty pounds.

8. *Power of county court to modify agreements and to apportion expenses.*—

(1) If any occupier of premises is prevented by any agreement from carrying out any structural alterations which are necessary to enable him to comply with the provisions of this Act, and is unable to obtain the consent to those alterations of the person whose consent is necessary under the agreement, he may apply, in accordance with rules of court, to the county court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such an order setting aside or modifying the terms of the agreement as the court considers just and equitable in the circumstances of the case.

(2) Where in any premises any structural or other alterations are required in order to comply with the provisions of this Act and the occupier alleges that the whole or part of the expense of the alterations ought to be borne by the owner, the occupier may apply, in accordance with rules of court, to the county court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such order concerning the expenses or their apportionment as the court considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the court may, at the request of the occupier, determine the lease.

9. *Definitions.*—For the purposes of this Act—

The expression "celluloid" means and includes the substances known as celluloid and xylonite and other similar substances, containing nitrated cellulose or other nitrated products, but does not include any substances which are explosives within the meaning of the Explosives Act, 1875 [38 & 39 Vict., c. 17];

The expression "raw celluloid" means—

(a) celluloid which has not been subjected to any process of manufacture; and

(b) celluloid scrap or waste;

The expression "cinematograph film" means any film containing celluloid which is intended for use in a cinematograph or any similar apparatus;

The expression "local authority" means county borough councils, borough councils, urban district councils and rural district councils.

10. *Application to Scotland and Ireland.*—This Act shall apply to Scotland subject to the following modifications:—

The Secretary for Scotland shall be substituted for the Secretary of State;

"Court of summary jurisdiction" and "county court" shall mean the sheriff;

"Local authority" shall mean the council of any county or burgh, and the expenses incurred by such council in the execution of their powers under this Act shall be defrayed out of any rate leviable equally on owners and occupiers.

(2) This Act shall not apply to Ireland.

11. *Short title, commencement, &c.*—(1) This Act may be cited as the Celluloid and Cinematograph Film Act, 1922, and shall come into operation on the first day of October, nineteen hundred and twenty-two.

(2) This Act shall not apply to the administrative county of London or to the city and royal burgh of Glasgow.

(3) The Secretary of State may by order direct that any provisions of the Liverpool Corporation Act, 1921 [11 & 12 Geo. 5, c. lxxiv], relating to the keeping, storing or manipulation of celluloid and cinematograph films shall cease to have effect as from such date as may be fixed by the order, but so long as those provisions continue to have effect this Act shall not apply to the city of Liverpool.

# SCHEDULES.

## FIRST SCHEDULE.

[Sections 1 and 3.]

### PART I.

#### RAW CELLULOID STORES.

The following regulation shall be observed in or in connection with premises where raw celluloid is kept or stored:—

All such celluloid shall be kept or stored in a fire-resisting store-room, and subject to the regulations applying to such store-rooms.

### PART II.

#### PREMISES WHERE CINEMATOGRAPH FILM IS KEPT OR STORED.

The following regulations shall be observed in or in connection with premises where cinematograph film is kept stored or manipulated:—

1. All stock except when actually being used or manipulated shall be kept either in a fire-resisting store-room and subject to the regulations applying to such store-rooms, or in fire-resisting receptacles which shall not be used for any other purpose and shall be plainly marked "Film."

2. Every reel of film shall, except when required to be exposed for the purposes of the work carried on in the premises, be kept in a separate and properly closed metal box.

3. Not more than 10 reels or 40 pounds of film shall be exposed at any one time.

4. The following provisions shall apply to every room used:—

(a) for the storing, or

(b) for the examination, cleaning, packing, re-winding or repair of film:—

(i) the room shall be used for no other purpose;

(ii) the room shall be kept properly ventilated;

(iii) adequate means of extinguishing fire, having regard to the amount of film on the premises, shall be kept constantly provided and readily available;

(iv) the furniture and apparatus shall be so arranged as to afford free egress to persons in the room in the event of fire;

(v) no open light or fire shall be allowed;

(vi) the fittings shall, so far as is practicable, be of non-inflammable or fire-resisting material;

(vii) the doors shall be self-closing, and shall, except in the case of sliding doors, be so constructed as to open outwards;

(viii) no person shall smoke in or take matches into the room;

(ix) there shall be kept posted up in large characters in the room:—

(a) a printed copy of Parts II and III of this Schedule;

(b) full instructions as to the action to be taken in case of fire and

(c) full directions as to the means of escape from the room in case of fire.

5. All celluloid waste and scrap on the premises shall be collected at frequent intervals and placed either in a fire-resisting store-room, or in a strong metal receptacle fitted with a hinged lid and marked "Celluloid Waste."

### PART III.

#### FIRE-RESISTING STORE-ROOMS.

The following regulations shall apply to fire-resisting store-rooms:—

1. The store-room shall be constructed of fire-resisting material in such manner as to prevent as far as is reasonably practicable any fire occurring in the store-room from spreading to other parts of the premises or to other premises, and any fire occurring outside the store-room from reaching the contents thereof.

2. The store-room shall be properly ventilated.

3. The fittings of the store-room shall, so far as is practicable, be of non-inflammable or fire-resisting material.

4. Adequate means of extinguishing fire shall be kept constantly provided and readily available.

5. No open light and no means of heating shall be allowed in the store-room.

6. If electric light is used, all conductors and apparatus shall be so constructed, installed, protected, worked and maintained as to prevent danger. Vacuum-type lamps only shall be used, and shall be fixed in positions and fitted with substantial outer protecting globes.

7. No person shall smoke in or take matches into the store-room.

8. The doors of the store-room shall be self-closing and shall be kept securely locked, except when articles are being placed therein or removed therefrom.

9. The store-room shall not be used for any purpose other than the keeping of celluloid or cinematograph film, and shall be clearly marked "Celluloid" or "Film."

10. Not more than one ton of celluloid and not more than five hundred and sixty reels or one ton of cinematograph film shall be kept in one store-room:

Provided that, where a store-room is divided into separate compartments by separate fire-resisting partitions without any openings therein, each such compartment may for the purposes of this provision, be regarded as a separate store-room.

11. When both celluloid and cinematograph film are stored in one store-room, the aggregate quantity therein shall, at no time, exceed one ton.

## SECOND SCHEDULE.

[Section 1.]

### PROCEDURE FOR MAKING ORDERS, &c.

1. Before the Secretary of State makes any order, he shall publish, in such manner as he may think best adapted for informing persons affected, notice of the proposal to make the order, and of the place where copies of the draft order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the Secretary of State.

2. Every objection must be in writing and state:—

(a) the draft order or portions of the draft order objected to;

(b) the specific grounds of objection; and

(c) the omissions, additions, or modifications asked for.

3. The Secretary of State shall consider any objection, made by or on behalf of any persons appearing to him to be affected, which is sent to him within the required time, and he may, if he thinks fit, amend the draft order, and shall then cause the amended draft to be dealt with in like manner as an original draft.

4. Where the majority of the occupiers of the premises affected by the proposed order dispute the reasonableness of the requirements in the proposed order, and the Secretary of State does not amend or withdraw the draft order, he shall, before making the order, direct an inquiry to be held in the manner hereinafter provided. The Secretary of State may also direct an inquiry to be held in regard to any objection, though not made by the majority of the occupiers, if he thinks fit.

5. The Secretary of State may appoint a competent person to hold an inquiry with regard to any draft order, and to report to him thereon.

6. The inquiry shall be held in public, and any person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry, either in person or by counsel, solicitor, or agent.

7. The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

8. Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the Secretary of State.

9. The fee to be paid to the person holding the inquiry shall be such as the Secretary of State may direct.

10. The order shall be laid as soon as possible before both Houses of Parliament, and, if either House within the next forty days after the order has been laid before that House resolve that all or any of the provisions of the order ought to be annulled, the order shall, after the date of the resolution, be of no effect, without prejudice to the validity of anything done in the meantime thereunder or to the making of any new order. If any of the provisions of an order are annulled, the Secretary of State may, if he thinks fit, withdraw the whole order.

11. Notice of any order having been made and of the place where copies of them can be purchased shall be published in the London and Edinburgh Gazettes.

## CHAPTER 36.

### ISLE OF MAN (CUSTOMS) ACT, 1922.

An Act to amend the Law with respect to Customs in the Isle of Man. [4th August, 1922.]

## CHAPTER 37.

### NAVAL DISCIPLINE ACT, 1922.

An Act to amend the Naval Discipline Act. [4th August, 1922.]

Be it enacted, &c.:—

1. *Amendment of s. 53 of the Naval Discipline Act.*—In paragraph (4) of section fifty-three of the Naval Discipline Act (which relates to the term of penal servitude which may be awarded) "three years" shall be substituted for "five years."

2. *Amendment of s. 58 of the Naval Discipline Act.*—Section fifty-eight of the Naval Discipline Act (which relates to the constitution of courts-martial) shall be amended as follows:—

In subsection (2) after the word "commander" there shall be inserted the words "lieutenant-commander."

In subsection (3) after the word "commanders" there shall be inserted the words "lieutenant-commanders."

In subsection (15) after the word "commander," wherever that word occurs, there shall be inserted the words "lieutenant-commander."

3. *Amendment of s. 60 of the Naval Discipline Act.*—In section sixty of the Naval Discipline Act (which relates to the times of sitting of court-martial), for the words "A court-martial held in pursuance of this Act shall sit from day to day" there shall be substituted the words "A court-martial held in pursuance of this Act may, if it appears to the Court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day."

4. *Amendment of s. 80 of the Naval Discipline Act.*—At the end of section eighty of the Naval Discipline Act, which relates to the removal of prisoners to asylums in the case of insanity, the following provision shall be inserted:

"This section shall not apply to persons imprisoned in England."

5. *Amendment of s. 86 of the Naval Discipline Act.*—Section eighty-six of the Naval Discipline Act (which defines certain terms) shall be amended as follows:—

(1) In the definition of "officer," after the words "warrant officer" there shall be inserted the words "other than a warrant officer, class II., of the Royal Marines."

(2) In the definition of "superior officer," for the word "including" there shall be substituted the words "warrant officers."

6. *Provisions respecting naval officers and seamen in ships of self-governing Dominions.*—(1) After section ninety A of the Naval Discipline Act there shall be inserted the following new section:—

"90A.—(1) Any person in or belonging to His Majesty's Navy and any officer or man of the Royal Marines who, by order of the Admiralty or of the Commander in Chief or the Senior Naval Officer present on a foreign station, is serving in a ship or belonging to the naval forces of a self-governing Dominion (provided such ship is not at the time placed at the disposal of the Admiralty), or in a naval establishment of a self-governing Dominion, or who is on board such ship or in such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such self-governing Dominion.

(2) For the purposes of this section, the expression 'self-governing Dominion' includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland."

7. *Amendment of s. 98A of the Naval Discipline Act.*—Section ninety-eight A of the Naval Discipline Act (which relates to the liability of seamen, &c. for the maintenance of wives and children) shall be amended as follows:—

The following subsection shall be substituted for subsection (2):—

"(2) Where—

(a) it appears to the satisfaction of the Admiralty or any person deputed by them for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age; or

(b) any order or decree is made under any Act or at common law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, and a copy of such order or decree is sent to the Admiralty or any person deputed by them for the purpose;

the Admiralty or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such order or decree, as the case may be, in such manner as the Admiralty or the person so deputed may think fit, a portion of such pay, at their or his discretion, but the amount deducted shall not exceed the amount fixed by the order or decree (if any), and shall not be a higher rate than hereinafter set out, namely:—

(i) in the case of a chief mechanic, chief artificer, chief shipwright, or chief petty officer mechanic, or a Warrant Officer (Class II.) a quarter-master-sergeant, a quarter-master-sergeant instructor, or a company sergeant-major in the Royal Marines—in respect of a wife or children four shillings a day and in respect of a bastard child three shillings a day;

(ii) in the case of any other chief petty officer or a petty officer or of any other non-commissioned officer not below the rank of sergeant in the Royal Marines—in respect of a wife or children three shillings a day and in respect of a bastard child two shillings a day;

(iii) in the case of any other naval rating, or soldier in the Royal Marines—in respect of a wife or children two shillings a day and in respect of a bastard child one shilling and sixpence a day:

"Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by an order or decree as aforesaid shall be ordered unless the Admiralty are, or the person deputed by them is, satisfied that the person against whom the order or decree was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order or decree was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved."

"Where any arrears have accumulated in respect of sums adjudged to be paid by any such order or decree as aforesaid whilst the person against whom the order or decree was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so."

In subsection (3) for the words "the process may be served by being left with the Admiralty" there shall be substituted the words "the process may, after not less than three weeks' notice to the Admiralty, be served by being sent to the Secretary of the Admiralty"; for the words "a sum of money" there shall be substituted the words "such sum of money if any"; for the word "sufficient" there shall be substituted the words "as may be fixed by the Admiralty as being necessary"; and the word "daily" shall be omitted.

At the end of the section the following new sub-section shall be added.

"(5) In this section the expression 'pay' includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions, and clothing."

8. *Printing and construction of Naval Discipline Act.*—The following Part shall be inserted in the Naval Discipline Act immediately after Part VII, and that Act shall have effect as if it had, when originally enacted, contained such a Part:—

#### "PART VIII.

##### "PRINTING CLAUSE.

"102.—(1) Every enactment and word which is directed by any Act amending this Act to be substituted for or added to any portion of this Act shall form part of this Act in the place assigned to it by the amending Act, and this Act and all Acts which refer thereto shall, after the commencement of the amending Act, be construed as if that enactment or word had been originally enacted in this Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if this Act had been enacted with the omission of any enactment or word which is directed by the amending Act to be repealed or omitted from this Act, and the expression 'this Act' shall be construed accordingly.

"(2) A copy of this Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act.

"(3) A reference in any enactment, Order in Council, or other document, to the Naval Discipline Act shall, unless the context otherwise requires, be construed as a reference to this Act as amended by any enactment for the time being in force."

9. *Short title, commencement, and repeal.*—(1) This Act may be cited as the Naval Discipline Act, 1922.

(2) This Act shall come into operation at the expiration of one month after the passing thereof.

(3) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

#### SCHEDULE.

##### [Section 9.]

Session and Chapter.	Short Title.	Extent of Repeal.
47 & 48 Vict. c. 39.	The Naval Discipline Act, 1884.	Section seven.
9 Edw. 7. c. 41.	The Naval Discipline Act, 1909.	Section two.
5 & 6 Geo. 5. c. 30.	The Naval Discipline Act, 1915.	Section sixteen.
5 & 6 Geo. 5. c. 73.	The Naval Discipline (No. 2) Act, 1915.	Section five.
7 & 8 Geo. 5. c. 34.	The Naval Discipline Act, 1917.	Section two.
7 & 8 Geo. 5. c. 51.	The Air Force (Constitution) Act, 1917.	In section seven, the words "and 'section two of the Naval Discipline Act, 1917 (which relates to the printing and construction of the Naval Discipline Act), shall apply to the amendments of the Naval Discipline Act made by this Act in like manner as it applies to the amendments thereof made by this Act."

CHAPTER 38.

NATIONAL HEALTH INSURANCE ACT, 1922.

An Act to make further provision with respect to the cost of medical benefit and to the expenses of the administration of benefits under the Acts relating to National Health Insurance to repeal section two and to amend section twenty-nine of the National Health Insurance Act, 1918, and for purposes connected therewith.

[4th August, 1922.]

Be it enacted, &c. :-

1. *Provision as to cost of medical benefit and administration expenses.*—

(1) There shall be paid in each year out of the funds hereinafter mentioned—

(a) to insurance committees in England, on account of the cost, and the expenses of the administration, of medical benefit, by way of addition to the sums payable under subsection (1) of section seven of the National Health Insurance Act, 1920 [10 & 11 Geo. 5, c. 10], and subject to such conditions as may be prescribed, a sum at such yearly rate as may be prescribed, but not exceeding two shillings and four pence halfpenny per year, in respect of each of the total number of the persons in respect of whom payments are made under the said section seven; and

(b) to the Minister of Health, on account of the expenses incurred by him in connection with the administration of benefits, a sum at such yearly rate as may be prescribed, but not exceeding three halfpence per year, in respect of each of the total number (calculated in the prescribed manner) of the members of the society.

(2) The sums to be paid as aforesaid shall be paid in the case of each approved society out of the benefit fund of the society, and there shall be repaid to the benefit fund out of the Central Fund an amount equal to seven-ninths of one-third of the sums so paid out of the benefit fund.

(3) Subject as hereinafter provided, no part of any sums paid under this section out of the benefit fund of an approved society shall be derived from moneys provided by Parliament:

Provided that there shall be credited to each society out of moneys provided by Parliament in such manner and at such times as may be prescribed by regulations to be made by the National Health Insurance Joint Committee with the approval of the Treasury, such sum (to be calculated in such manner as the regulations may prescribe) as would, by virtue of section three of the National Insurance Act, 1911 [1 & 2 Geo. 5, c. 55] be payable out of moneys provided by Parliament if the sums paid by the society under this section, together with interest thereon from the date of payment at the rate prescribed for the purposes of paragraph (c) of subsection (1) of section fifty-six of the National Insurance Act, 1911, were, on the valuation of the society made next after the passing of this Act, applied for the purpose of additional benefits under the National Insurance Act, 1911.

(4) In this section the expression "benefit fund" means the fund out of which benefits are payable under Part I of the National Insurance Act, 1911.

(5) This section shall come into operation on the first day of April, nineteen hundred and twenty-two and subsection (1) of this section shall continue in force until the thirty-first day of December, nineteen hundred and twenty-three.

2. *Abolition of Women's Equalisation Fund.*—(1) Section two of the National Health Insurance Act, 1918 [7 & 8 Geo. 5, c. 62] (which provides for the establishment of the Women's Equalisation Fund), shall cease to have effect, and in the exercise of the power conferred by section twenty-eight of the National Insurance Act, 1913 [3 & 4 Geo. 5, c. 37], of making regulations with respect to the crediting or variation or cancellation of reserve values regard shall be had to the provisions of this section.

(2) This section shall be deemed to have had effect as from the first day of January, nineteen hundred and twenty-two:

Provided that nothing in this section shall render invalid any scheme or regulation duly made before the passing of this Act under the said section two of the National Health Insurance Act, 1918, and any scheme or regulation so made shall have full effect.

(3) This section shall apply to Northern Ireland.

3. *Application of part of sums unclaimed in stamp sales account towards cancellation of arrears.*—(1) Such part as the National Health Insurance Joint Committee may direct of the sums which, under section twenty-nine of the National Health Insurance Act, 1918 (which provides for the disposal of sums unclaimed in the stamp sales account) are to be carried to the Central Fund shall, instead of being so carried, be credited to approved societies in accordance with a scheme to be made by the said committee with the approval of the Treasury, and any sums credited under this section to an approved society shall be applied by the society in such manner as the scheme may provide for the purpose of preventing such members of the society as are in arrears from being or continuing to be suspended from benefit.

(2) This section shall continue in force until the thirty-first day of December, nineteen hundred and twenty-two.

4. *Payment out of Central Fund for health insurance purposes in Northern Ireland.*—There shall be paid out of the Central Fund to the Ministry of Labour for Northern Ireland, to be applied for the purposes of National Health Insurance in Northern Ireland in such way as the Parliament of Northern Ireland may direct, such sums as the National Health Insurance Joint Committee may determine, having regard to the sums paid out of the fund under this Act to the benefit funds of approved societies in Great Britain.

5. *Application to Scotland, &c.*—(1) This Act shall apply to Scotland subject to the following modifications, that is to say, two shillings and nine pence shall be substituted for two shillings and four pence halfpenny, the Scottish Board of Health shall be substituted for the Minister of Health, and two pence halfpenny shall be substituted for three halfpence, and section one of this Act shall have effect as if there were inserted after the word "benefits" in paragraph (b) of subsection (1) thereof the words "and the provision of a medical service for insured persons in such districts" of Scotland (other than the Highlands and Islands within the meaning of the Highlands and Islands (Medical Service) Grant Act, 1913) [3 & 4 Geo. 5, c. 26] as may be determined by the Scottish Board of Health "to be necessitous."

(2) This Act shall apply to Wales subject to the following modifications, that is to say, two shillings and eleven pence halfpenny shall be substituted for two shillings and four pence halfpenny and two pence shall be substituted for three halfpence.

(3) This Act shall not (except as therein otherwise expressly provided) apply to Ireland.

6. *Short title and construction.*—This Act may be cited as the National Health Insurance Act, 1922, and shall be construed as one with the National Health Insurance Acts, 1911 to 1921, and those Acts and this Act may be cited together as the National Health Insurance Acts, 1911 to 1922.

CHAPTER 39.

OIL IN NAVIGABLE WATERS ACT, 1922.

An Act to make provision against the discharge or escape of oil into navigable waters.

[4th August, 1922.]

Be it enacted, &c. :-

1. *Penalty for discharge of oil into navigable waters.*—(1) If any oil is discharged, or allowed to escape whether directly or indirectly, into any waters to which this Act applies from any vessel or from any place on land or from any apparatus used for the purpose of transferring oil from or to any vessel to or from any other vessel (whether a vessel to which this Act applies or not) or to or from any place, the owner or master of the vessel, from which the oil is discharged or allowed to escape, the occupier of the land, or the person having charge of the apparatus, as the case may be, shall be guilty of an offence and shall, in respect of each such offence, be liable on summary conviction to a fine not exceeding one hundred pounds:

Provided that it shall be a good defence to proceedings for an offence under this section to prove—

(a) if the proceedings are against the owner or master of a vessel, that the escape of the oil was due to, or that it was necessary to discharge the oil by reason of, the vessel being in collision or the happening to the vessel of some damage or accident, and also, if the proceedings are in respect of an escape of oil, that all reasonable means were taken by the master to prevent the escape; and

(b) if the proceedings are against any other person and are in respect of an escape of oil, that all reasonable means were taken by that person to prevent the escape.

(2) It shall be lawful for a harbour authority to appoint a place within their jurisdiction at which the ballast water of vessels in which a cargo of petroleum spirit has been carried may be discharged, and where a place is so appointed any such ballast water may, notwithstanding anything in this section, be discharged at that place, but only at such times and subject to such conditions as the harbour authority may from time to time determine:

Provided that the foregoing provision shall not apply to ballast water containing oil other than petroleum spirit.

For the purposes of this subsection, the expression "petroleum spirit" means refined petroleum which is subject to rapid evaporation and which, when tested in the manner prescribed by the Petroleum Act, 1879 [42 & 43 Vict. c. 47], or any enactment amending that Act, gives off an inflammable vapour at a temperature of less than 73 degrees of Fahrenheit's thermometer.

2. *Prohibition of transfer of oil at night.*—(1) It shall not be lawful during the hours between sunset and sunrise to transfer any oil to or from any vessel lying in any harbour unless notice of intention so to do has been given in accordance with the provisions of this section.

(2) If any oil is transferred to or from any vessel in contravention of the provisions of this section, the master of the vessel and, if the oil is transferred from or to premises on land, the occupier of the premises shall, in respect of each offence, be liable on summary conviction to a fine not exceeding twenty pounds.

(3) A notice for the purposes of this section must be given to the harbour master of the harbour in which the vessel is lying and shall be of no effect unless given at least three hours and not more than ninety-six hours before the time at which the operation of transferring the oil commences:

Provided that, in the case of an operation to be performed at a place where such operations are frequently and regularly carried on, or in the case of a transfer of oil for fire brigade purposes, the notice may, instead of being a notice given to the harbour master within the time hereinbefore provided, be a general notice given to the harbour master to the effect that such operations will during such period not exceeding twelve months from the date of notice, as may be specified therein, be carried on between sunset and sunrise.

3. *Keeping of records with respect to transfer of oil.*—(1) There shall be kept in the case of every vessel a record, in such form as the Board of Trade may prescribe, of all operations in connection with the transfer of oil to and from the vessel.

(2) The record required to be kept under this section shall, in the case of a barge, be kept, so far as relates to the transfer of oil to the barge, by the person supplying the oil, and, so far as relates to the transfer of oil from the barge, by the person to whom the oil is delivered, and shall, in every other case, be kept by the master of the vessel.

(3) Every record kept under this section may at all reasonable times be inspected by the harbour master of the harbour in which the vessel is or, in the case of a barge, was at the time of transfer or by any person duly authorised in that behalf by the Board of Trade, the Minister of Agriculture and Fisheries, the Fishery Board for Scotland, or the Ministry of Commerce for Northern Ireland.

(4) If any person required to keep a record under this section fails to keep such a record or to make proper entries therein, or to produce the record on a demand in that behalf made by any person authorised to inspect it, he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding fifty pounds, and if any such person makes any entry in the record which is to his knowledge false or in any material particular misleading, or wilfully fails to make any entry in the record, he shall, in respect of each offence, be liable on summary conviction to a fine not exceeding one hundred pounds.

4. *Liquid contained in spaces used for carriage of oil to be deemed oil for purposes of Act.*—(1) Where oil has been contained in any tanks or other spaces in a vessel, any liquid discharged or allowed to escape from those tanks or spaces shall, unless it is proved that the tanks or spaces have been cleaned of oil, or that the liquid has been freed from oil by means of a separating apparatus, be deemed to be oil within the meaning of this Act.

(2) In the case of proceedings against any person other than the master of a vessel, evidence of the matters aforesaid may be given by means of a certificate signed by the master, and, if the master of a vessel gives any certificate under this section which is to his knowledge false or in any material particular misleading, he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding fifty pounds.

(3) In this section the expression "master of a vessel" means the person named as the master in the agreement with the crew.

5. *Application of fines.*—Where any person is convicted of the offence of having in contravention of the provisions of this Act discharged or allowed to escape any oil into any waters to which this Act applies, the court before which he is convicted may, on the application of the prosecutor, order that the whole or any part of the fine imposed in respect of the offence shall be paid to such person as the court may direct for the purpose of being applied by him in or towards meeting any expenses incurred or to be incurred in the removal of the oil so discharged or allowed to escape.

6. *Power to inspect premises and vessels.*—(1) The Board of Trade may, if they think fit, either at their own instance or at the instance of the Minister of Agriculture and Fisheries, the Fishery Board for Scotland, or the Ministry of Commerce for Northern Ireland, or of any local authority, appoint any officer of the Board of Trade or other competent and independent person to inspect any vessel being in any waters to which this Act applies, and any person so appointed or the harbour master of the harbour in which the vessel is may at all reasonable times enter upon the vessel and examine the measures adopted to prevent the escape of oil.

(2) If it is represented to the Board of Trade by the Minister of Agriculture and Fisheries, the Fishery Board for Scotland, or the Ministry of Commerce for Northern Ireland, or by any local or harbour authority, that there is reason to suspect that oil is escaping or has escaped, whether directly or indirectly, into waters to which this Act applies from premises adjacent to or in the neighbourhood of those waters, the Board of Trade may, if they think fit, appoint any officer of the Board or other competent and independent person to inspect the premises, and any officer or person so appointed may at all reasonable times enter upon and inspect the premises.

(3) If any person obstructs or interferes with any person authorised to enter on any premises or vessels under this section, he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding ten pounds.

7. *Legal proceedings.*—(1) Where an offence under this Act is alleged to have been committed by the master of a vessel who thereafter departs from Great Britain and Northern Ireland before the expiration of the period within which proceedings for the offence might have been instituted against him, proceedings for the offence may, notwithstanding anything in the Summary Jurisdiction Acts, be instituted against him at any time within two months next after the date on which he first returns to Great Britain or Northern Ireland.

(2) For the purpose of any proceedings for an offence under this Act, the offence may be treated as having been committed either at the place at which it was actually committed or at any place in which the person charged with the offence may at any time be.

(3) Where a fine imposed by any court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time and in manner ordered by the court, the court shall, without prejudice to any other powers of the court for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or poinding and sale of the vessel, her tackle, furniture and apparel.

(4) Proceedings for an offence under this Act shall not be instituted in the case of an offence committed in or in relation to the waters of a harbour except by the harbour authority, and in any other case except by a person authorised in that behalf by special or general directions of the Board of Trade, the Minister of Agriculture and Fisheries, or the Ministry of Commerce for Northern Ireland: Provided that nothing in this subsection shall apply to the institution of proceedings in Scotland.

8. *Interpretation and application.*—(1) In this Act, unless the context otherwise requires—

The expression "oil" means oil of any description, and includes spirit produced from oil and oil mixed with water:

The expression "harbour" means any harbour whether natural or artificial, and includes any port, dock, estuary or arm of the sea, any river or canal navigable by sea-going vessels, and any waters in which sea-going vessels can obtain shelter or ship or unship goods or passengers:

The expression "harbour authority" includes all persons or bodies of persons, corporate or unincorporate, being proprietors of or entrusted with the duty or invested with the power of constructing, improving, managing, regulating or maintaining a harbour:

The expression "harbour master" includes any person appointed by a harbour authority for the purpose of enforcing the provisions of this Act:

The expression "master" when used in relation to any vessel means the person having the command or charge of the vessel for the time being:

The expression "vessel" has the same meaning as in the Merchant Shipping Act, 1894 [57 & 58 Vict., c. 60]:

The expression "barge" includes lighter or like vessel:

The expression "transfer" in relation to oil means transfer in bulk:

The expression "local authority" means, in the application of this Act to England, the council of a county or county borough or urban or rural district or a port sanitary authority, in the application of this Act to Scotland the council of a county or burgh or a port local authority, and, in the application of this Act to Northern Ireland, the council of a county, county borough or county district, or a port sanitary authority.

(2) This Act shall apply to any vessel which is capable of carrying in bulk, whether for cargo or for bunker purposes, more than twenty-five tons of oil, or which, though not so capable is constructed or fitted to carry in bulk as aforesaid more than five tons of oil in any one space or container.

(3) The waters to which this Act applies are the territorial waters of Great Britain and Northern Ireland and the waters of harbours therein.

(4) For the purposes of section six of the Government of Ireland Act, 1920 [10 & 11 Geo. 5. c. 67.], this Act in its application to Northern Ireland shall be deemed to be an Act passed before the appointed day.

9. *Short title and saving.*—(1) This Act may be cited as the Oil in Navigable Waters Act, 1922.

(2) The provisions of this Act shall be in addition to and not in derogation of or substitution for any provisions for the protection of a harbour as defined in this Act contained in any existing Act or re-enactment thereof or in any order, rule, regulation, or bye-law made or to be made under such Act or any re-enactment thereof.

(3) This Act shall come into operation on the first day of January, nineteen hundred and twenty-three.

## CHAPTER 40.

### AIR MINISTRY (KENLEY COMMON ACQUISITION) ACT, 1922.

An Act to confirm an agreement between the Mayor and Commonalty and Citizens of the City of London and the President of the Air Council in relation to the acquisition of certain lands in the county of Surrey, and for purposes in connection therewith. [4th August, 1922.]

## CHAPTER 41.

### REPRESENTATION OF THE PEOPLE (NO. 2) ACT, 1922.

An Act to amend section thirty-four of the Representation of the People Act, 1918, as respects offences under that section committed by bodies of persons. [4th August, 1922.]

Be it enacted, &c.—

1. *Amendment of s. 34 of 7 & 8 Geo. 5. c. 64.*—The following subsection shall be inserted at the end of section thirty-four of the Representation of the People Act, 1918 (which provides that any unauthorised person who incurs expenses for the purpose of promoting or procuring the election of any candidate at a parliamentary election shall be guilty of a corrupt practice):—

"(4) Where the person guilty of an offence against this section is a body of persons corporate or unincorporate, every director or officer of that body shall, unless he proves that the act constituting the offence was committed without his knowledge or consent, be guilty of the like offence."

2. *Short title and application.*—(1) This Act may be cited as the Representation of the People (No. 2) Act, 1922, and shall be included among the Acts which may be cited as the Representation of the People Acts, 1918 to 1922.

(2) This Act shall not apply to any part of Ireland other than Northern Ireland, and in its application to Northern Ireland shall, for the purposes of sections six and fifteen of the Government of Ireland Act, 1920 [10 & 11 Geo. 5, c. 67] be deemed to be an Act passed before the appointed day.

#### CHAPTER 42.

##### SCHOOL TEACHERS (SUPERANNUATION) ACT, 1922.

An Act to provide for the payment of contributions by teachers towards the cost of benefits under the School Teachers (Superannuation) Act, 1918, and for matters incidental thereto, and to make provision as to the calculation of average salary for the purposes of the said Act.

[4th August, 1922.]

#### CHAPTER 43.

##### POST OFFICE (PNEUMATIC TUBES ACQUISITION) ACT, 1922.

An Act to confirm an agreement made between the Pneumatic Despatch Company, Limited, and the Postmaster-General for the acquisition by the Postmaster-General of a certain tube running between St. Martin's-le-Grand in the City of London and Eversholt Street, in the Metropolitan Borough of St. Pancras, and for purposes connected therewith.

[4th August, 1922.]

#### CHAPTER 44.

##### BRITISH NATIONALITY AND STATUS OF ALIENS ACT, 1922.

An Act to amend the British Nationality and Status of Aliens Acts, 1914 and 1918, as respects the acquisition of British nationality by persons born out of His Majesty's Dominions.

[4th August, 1922.]

Be it enacted, &c. :—

1. *Amendment of definition of natural-born British subject.*—Section one of the principal Act (which contains the definition of a natural-born British subject) shall be amended as follows :—

(1) The following paragraph shall be substituted for paragraph (b) of subsection (1) :—

"(b) Any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfils any of the following conditions, that is to say, if either—

"(i) his father was born within His Majesty's allegiance; or

"(ii) his father was a person to whom a certificate of naturalization had been granted; or

"(iii) his father had become a British subject by reason of any annexation of territory; or

"(iv) his father was at the time of that person's birth in the service of the Crown; or

"(v) his birth was registered at a British consulate within one year or in special circumstances, with the consent of the Secretary of State, two years after its occurrence, or, in the case of a person born on or after the first day of January, nineteen hundred and fifteen, who would have been a British subject if born before that date, within twelve months after the first day of August, nineteen hundred and twenty-two; and"

(2) The following shall be inserted at the end of subsection (1) :

"Provided also that any person whose British nationality is conditional upon registration at a British consulate shall cease to be a British subject unless within one year after he attains the age of twenty-one, or within such extended period as may be authorised in special cases by regulations made under this Act—

"(i) he asserts his British nationality by a declaration of retention of British nationality, registered in such manner as may be prescribed by regulations made under this Act; and

"(ii) if he is a subject or citizen of a foreign country under the law of which he can, at the time of asserting his British nationality, divest himself of the nationality of that foreign country by making a declaration of alienage or otherwise, he divests himself of such nationality accordingly."

2. *Consequential amendment.*—At the end of subsection (1) of section twenty-seven of the principal Act, the following words shall be inserted :—

"The expression 'British Consulate' means the office of any British consular officer where a register of births is kept, and includes, in the case of any territory where there is no British Consulate and there is a British resident or other representative of His Majesty, the office of such resident or representative."

3. *Interpretation, short title, and printing.*—(1) In this Act the expression "the principal Act" means the British Nationality and Status of Aliens Act, 1914 [4 & 5 Geo. 5, c. 17], as amended by the British Nationality and Status of Aliens Act, 1918 [8 & 9 Geo. 5, c. 38].

(2) This Act may be cited as the British Nationality and Status of Aliens Act, 1922, and the principal Act, the British Nationality and Status of Aliens Act, 1918, and this Act may be cited together as the British Nationality and Status of Aliens Acts, 1914 to 1922.

(3) Every enactment and word which is directed by this Act, to be substituted for or added to any portion of the principal Act, shall form part of the principal Act in the place assigned to it by this Act; and the principal Act, and all Acts, including this Act, which refer thereto shall, after the commencement of this Act, be construed as if the said enactment or word had been enacted in the principal Act, in the place so assigned, and where it is substituted for another enactment or word, had been enacted in lieu of that enactment or word.

A copy of the principal Act, with the amendments, whether by way of substitution, addition or omission, required by this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print, in accordance with the copy so certified, all copies of the principal Act, which are printed after the commencement of this Act.

(4) A reference in any enactment (whether passed before or after the passing of this Act), or in any document to the British Nationality and Status of Aliens Act, 1914, shall, unless the context otherwise requires, be construed to refer to that Act as amended by any enactment for the time being in force.

#### CHAPTER 45.

##### TELEGRAPH (MONEY) ACT, 1922.

An Act to provide for raising further money for the purpose of the Telegraph Acts, 1863 to 1921.

[4th August, 1922.]

#### CHAPTER 46.

##### ELECTRICITY (SUPPLY) ACT, 1922.

An Act to amend the law with respect to the supply of electricity.

[4th August, 1922.]

Be it enacted, &c. :—

1. *Power of authorities to borrow.*—(1) For the purposes hereinafter mentioned, a joint electricity authority may, with the consent of the Electricity Commissioners, and subject to regulations to be made by the Minister of Transport with the approval of the Treasury, borrow money, in such manner and subject to such provisions as to the repayment thereof, and with such powers as to reborrowing for the purpose of paying off a loan previously raised, as may be prescribed by the regulations, and such regulations may empower a joint electricity authority to borrow temporarily, to issue bonds and to make arrangements with bankers, and may apply with or without modifications any enactments relating to borrowing by local authorities, including provisions as to the enforcement of the security by the appointment of a receiver or otherwise.

(2) Such powers of borrowing as aforesaid may be exercised for all or any of the following purposes :—

(a) for the purpose of the payment of the purchase price of any generating station or main transmission line transferred to, acquired by, or vested in a joint electricity authority under the Electricity (Supply) Act, 1919 [9 & 10 Geo. 5, c. 100], (hereinafter referred to as "the principal Act"), or of any undertaking or part of an undertaking acquired by the authority under the principal Act;

(b) for the purpose of any other payment or of any permanent work or other thing which the authority are authorised to execute or do, the cost of which ought, in the opinion of the Electricity Commissioners, to be spread over a term of years (including the payment of interest on money borrowed for capital expenditure whilst the expenditure remains unremunerative, but in no case for a period of more than five years from the commencement of the financial year next after that in which such expenditure commences to be incurred, and the payment of any sum payable under subsection (3) of section eighteen of the principal Act);

(c) for the purpose of providing working capital.

(3) Any money borrowed under this section, and the interest thereon, may be charged on the undertaking and all the revenues of the joint electricity authority, or on any specific property forming part of that undertaking, and shall be repaid within such period not exceeding sixty years as the Electricity Commissioners may determine.

(4) A scheme constituting a joint electricity authority shall fix with reference to the estimated capital expenditure of the authority the maximum amount which may be borrowed by the authority, and the authority shall not have power to borrow any sums in excess of the amount so fixed, otherwise than for the purpose of paying off loans previously raised, unless authorised by an order of the Electricity Commissioners confirmed by the Minister and such order shall be provisional only and shall not come into force unless confirmed by Parliament.

2. *Sinking fund for new works.*—Notwithstanding anything to the contrary contained in any Act, whether public, general or local and personal, it shall be lawful for the annual provision required to be made by a joint electricity authority or by a local authority for the repayment of money borrowed after the passing of this Act for any of the purposes of the Electricity Supply Acts, 1882 to 1919, or of this Act, to be suspended whilst the expenditure out of such moneys remains unremunerative, for such period and subject to such conditions as the Electricity Commissioners or other authority by whom the borrowing is sanctioned may determine;

Provided that such suspension shall not be for a longer period than five years from the commencement of the financial year next after that in which such expenditure commences to be incurred.

3. *Power to authorise issue of stock.*—(1) The Electricity Commissioners may, for the purpose of enabling a joint electricity authority to raise money which they are authorised to borrow under this Act, authorise the authority to issue stock bearing interest at such rate as the authority with the consent of the Electricity Commissioners may determine.

(2) All such stock, and interest thereon, shall be charged on the undertaking and all the revenues of the joint electricity authority.

(3) Subject to the provisions of this Act, any stock created by a joint electricity authority under the powers of this Act shall be issued, transferred, dealt with, and redeemed according to regulations made by the Electricity Commissioners, and any such regulations may apply for the purpose of this section, with or without modifications, any provisions of the Local Loans Act, 1875 [38 & 39 Vict., c. 83] the Public Health Acts Amendment Act, 1890 [53 & 54 Vict., c. 59], and the Acts amending those Acts, and of any Act relating to stock issued by any local authority.

4. *Power to discharge purchase price by issue of stock, &c.*—A joint electricity authority may, with the consent of the authorised undertakers concerned, discharge the whole or any part of the purchase price payable under the principal Act or this Act (otherwise than by way of annuity) to any authorised undertakers in respect of any undertaking or part thereof or any generating station or main transmission line transferred to or acquired by the authority under the principal Act, by the issue to, or the creation in favour of, the undertakers of such amount of stock or other securities as may be agreed upon, or determined in manner hereinafter provided, to be equivalent in value to the whole or part of the purchase price in respect of which the stock or other securities are issued or created, and if any difference arises as to the amount of stock or other securities which is so equivalent in value the difference shall be determined by an independent financial expert agreed between the parties or, in default of agreement, appointed by the Treasury.

5. *Power of undertakers, &c. to give financial assistance.*—(1) Any authorised undertakers whose area of supply is wholly or partly within the district of any joint electricity authority, and any local authority, company, or person receiving or intending to receive a supply of electricity from the joint electricity authority, and the council of any county or any borough or county district having a population according to the last published census returns for the time being of not less than fifty thousand wholly or partly within the district of the joint electricity authority, shall have power—

(a) to lend any money to the joint electricity authority which the authority is authorised to borrow; or

(b) to subscribe for any securities issued by the joint electricity authority for the purpose of raising such money; or

(c) to guarantee or join in guaranteeing the payment of interest on any money borrowed by the joint electricity authority or on any securities issued by that authority;

on such terms (including the payment of consideration for the assistance given) and subject to such conditions, as the authority, company, or person giving such financial assistance may think fit:

Provided that, in the case of the council of a county or borough or county district, whether or not the council are authorised undertakers, or receive or intend to receive a supply of electricity from the joint electricity authority, such powers as aforesaid shall not be exercised (except in the case of the London County Council) without the consent of the Minister of Health:

Provided also that nothing in this section shall authorise the raising of any money or the giving of any guarantee by any such council as aforesaid which would involve the council in an annual liability exceeding—

(a) in cases where the council are not authorised undertakers, the amount which would be produced by a rate of one penny in the pound; such amount to be estimated for the purposes of this section in such manner as may be determined by the Minister of Health; or

(b) in cases where the council are authorised undertakers, the estimated annual amount of any capital charges from which the council will be relieved by reason of taking a supply in bulk from the joint electricity authority; such estimated amount to be determined by the Electricity Commissioners, whose decision shall be final.

(2) The raising of money for the purpose of so lending or subscribing for securities shall be a purpose for which a council, being authorised undertakers, may borrow under the Electricity (Supply) Acts, 1882 to 1919, and for which a council, not being authorised undertakers, may borrow—

(a) in the case of a council of a county, under the Local Government Act, 1888 [51 & 52 Vict., c. 41];

(b) in the case of the council of a metropolitan borough, under the Metropolis Management Acts, 1855 to 1893; and

(c) in the case of the council of a municipal borough or county district, under the Public Health Act, 1875 [38 & 39 Vict., c. 55];

and any money payable by such council under any such guarantee, shall be treated as expenses in the carrying of the said Acts into execution respectively, and in the case of a council of a county shall, if the Minister of Health so directs, be treated as expenses for special county purposes charged on the part of the county within the district of the joint electricity authority.

Section twenty-one of the Electric Lighting Act, 1909 [9 Edw. 7, c. 34], shall apply to money borrowed by a council under this section as it applies to money borrowed by a local authority under the Electric Lighting Acts, and accordingly money so borrowed under this section shall not be reckoned as part of the total debt of the council for the purpose of any limitation on borrowing under the enactments relating to borrowing by the council.

(3) Any company, association, or body of persons may exercise any such power as aforesaid, notwithstanding anything contained in any Act, order, or instrument by or under which it is constituted or regulated, and may apply any of their funds for the purpose of lending any such money, subscribing for any such securities, or fulfilling any such guarantee, and may borrow for the purpose of making any such loans or subscriptions.

(4) A scheme under the principal Act constituting a joint electricity authority or other body for the improvement of the organisation of the supply of electricity in any electricity district may include provisions authorising or requiring authorised undertakers, and authorising companies and other bodies represented, on the authority or body to contribute towards any administrative expenses of the authority or body.

(5) Any authorised undertakers may exercise such powers as aforesaid, notwithstanding anything in section three of the schedule to the Electric Lighting (Clauses) Act, 1899 [62 & 63 Vict., c. 19], as incorporated in any order or special Act applying to them or any similar provisions contained in any such order or special Act.

(6) This section shall apply in the case of the City of London as if the City of London were a county and the common council of the city the council thereof, and as if the raising of money for the purpose of lending or subscribing to securities under this section were a purpose for which the common council may borrow under and in accordance with the City of London Sewers Acts, 1848 to 1897.

6. *Power of authorised undertakers to lease undertaking to joint electricity authority.*—Any authorised undertakers may lease to a joint electricity authority and a joint electricity authority may take a lease from any authorised undertakers of the whole or any part of their undertaking.

Any such lease shall be subject to the approval of the Electricity Commissioners, and, subject thereto, may be, with or without the option of purchase by the authority of the undertaking or any part thereof, leased thereby and may be made to and taken by the authority for such period on such terms and conditions including the vesting in the authority of any rights, powers, and obligations of the transferring undertakers under any contract or agreement entered into by such undertakers and relating to the supply of electricity as may be agreed upon between the authority and the transferring undertakers.

7. *Expenses of Electricity Commissioners.*—(1) The period of two years mentioned in section twenty-nine of the principal Act shall be deemed to have extended to the thirty-first day of March, nineteen hundred and twenty-two, and the advances made to the Commissioners under that section shall be repaid, with interest as therein provided, by instalments before the thirty-first day of March, nineteen hundred and twenty-five, so that not more than two-thirds thereof shall be outstanding on the thirty-first day of March, nineteen hundred and twenty-three, and not more than one-third thereof shall be outstanding on the thirty-first day of March, nineteen hundred and twenty-four.

(2) The Electricity Commissioners may, during the financial year current at the passing of this Act, make the apportionment among and demand upon the joint electricity authorities and authorised undertakers provided for by the said section, and such apportionment shall be made in accordance with the number of units of electricity generated by each joint electricity authority or authorised undertaker within Great Britain in the year ending the thirty-first day of December, nineteen hundred and twenty-one; and in any case where an authorised undertaker obtained a supply from any source other than the joint electricity authority or an authorised undertaker the number of units of electricity so obtained by such authorised undertaker shall be deemed to have been generated by that authorised undertaker. Any apportionment under the said section twenty-nine subsequent to the financial year current at the passing of this Act shall (notwithstanding anything to the contrary in the principal Act) be made in accordance with the number of units of electricity sold by each joint electricity authority or authorised undertaker within Great Britain in the year ending the thirty-first day of December next preceding that for which the apportionment is made. The expression "units of electricity sold" means all units generated or purchased by a joint electricity authority or authorised undertaker less (a) those used in the generating station, (b) those lost in transmission or distribution, and (c) those sold in bulk to authorised undertakers.

(3) Every such joint electricity authority and authorised undertaker shall furnish to the Electricity Commissioners not later than the first day of March in each year a statement of the number of units so sold by them, and in the event of any such authority or undertaker failing to supply such particulars on or before that date the Electricity Commissioners may proceed with the apportionment, and for that purpose may make any necessary estimates.

(4) The apportionment when made shall be conclusive for all purposes:

Provided that, if it subsequently appears to the Electricity Commissioners that for any reason the apportionment for any year ought to be revised, they may revise the apportionment, and when determining the apportionment in any subsequent year make such adjustments as may be necessary to give effect to such revision.

(5) If any joint electricity authority or authorised undertaker fail to pay to the Electricity Commissioners the sum apportioned to them within two months after receiving the demand therefor, interest at the rate of six per centum per annum shall be payable on the amount demanded from the date of demand to the date of payment.

(6) The Electricity Commissioners may, in estimating their expenditure for the purposes of subsection (1) of section twenty-nine of the principal Act, include a reasonable sum in order to provide a working balance for the year.

(7) Any sums due from any joint electricity authority or authorised undertaker under section twenty-nine of the principal Act, as amended by this section, shall be recoverable by the Electricity Commissioners summarily as a civil debt.

8. *Method of payment of purchase price payable to local authorities.*—The consideration payable to a local authority in respect of the transfer of the whole or any part of their undertaking, either in pursuance of a scheme constituting a joint electricity authority or in pursuance of section thirteen of the principal Act, may, in the option of the local authority, be either one or more terminable annuities, or a capital sum, or any other form of payment approved by the Electricity Commissioners.

9. *Use of main transmission lines by agreement.*—A joint electricity authority may, by agreement with any authorised undertakers or other persons, use, subject in the case of authorised undertakers to the Acts and Orders relating to the undertaking, any main transmission line of those undertakers or persons for such time and upon such terms as may be agreed.

10. *Disposal of stations and works not required.*—A joint electricity authority may, with the consent of the Electricity Commissioners, dispose of any generating station, land, or other works or property which may appear to them to be no longer required for the purposes of their undertaking, subject, as respects any land which is subject to any right of pre-emption, to that right:

Provided that, where the generating station contains plant which is the property of the former owners of the generating station, the Electricity Commissioners shall, as a condition of granting their consent to the disposal of the generating station, require such provision to be made by the joint electricity authority as the Electricity Commissioners consider necessary to safeguard the rights of such former owners.

11. *Power to continue wayleaves.*—Where any joint electricity authority or authorised undertakers have under any terminable agreement or arrangement, whether made before or after the passing of this Act, placed above or below ground any electric line which could have been so placed under the provisions of section twenty-two of the principal Act, the joint electricity authority or authorised undertakers may, notwithstanding the termination of such agreement or arrangement, retain the line in position, on the same terms and subject to the same conditions as were previously applicable thereto, unless and until objection is made by the owner or occupier of any land over or under which it is placed, but, in the event of any such objection being made, the line shall only be retained if the provisions of section twenty-two of the principal Act regulating the placing of a new line are complied with, and subject to the provisions of that section applicable to lines placed across land in pursuance of that section:

Provided that the joint electricity authority or authorised undertakers may, at any time whilst a line is so retained, apply to the Minister of Transport for a revision of the said terms and conditions, in which event the provisions of section twenty-two of the principal Act shall apply as if the retention of the line in position were the placing of an electric line across land, and the authority or undertakers shall not be required to remove the line pending the decision upon such application.

12. *Power to make agreements as to working of generating stations.*—Where a generating station or main transmission line becomes transferred to or is acquired by a joint electricity authority under the principal Act, the authority may, subject to the approval of the Electricity Commissioners, agree with the former owner thereof that such owner shall work and maintain the same on behalf of the authority for such period and on such terms as may be agreed between them.

13. *Conditions under which restriction on generating stations and obligation to take supply from are not to apply.*—The Electricity Commissioners shall not—

(a) refuse, under section eleven of the principal Act, their consent to the establishment of a new, or the extension of an existing, generating station by any authorised undertakers if it is proved to the satisfaction of the Electricity Commissioners that, having regard to all the circumstances of the case, the undertakers are or will, if the consent be given, be in a position to give a supply of electricity adequate in quantity and regularity to meet present and prospective demands of their consumers at a cost not greater than that at which they could give a supply if they obtained a supply of electricity from some other available source designated by the Electricity Commissioners; or

(b) require under section nineteen of the principal Act any authorised undertakers to enter into an agreement for taking a supply of electricity from some other specified undertakers if it is proved to the satisfaction of the Electricity Commissioners that, having regard to all the circumstances of the case, including the duration of the period during which the supply is taken, and the estimated financial results likely to be obtained during that period, the undertakers would, if they obtained a supply of electricity from some other source, be in a position to give a supply of electricity adequate in quantity and regularity to meet the present and prospective demands of their consumers at a cost not greater than that at which they could give such a supply if they obtained the supply from those specified undertakers;

unless the Electricity Commissioners determine that such refusal or requirement is necessary in the interest of the general supply of electricity in the district whether provisionally or finally determined under the principal Act.

14. *Suspension of powers of purchase of undertakings.*—(1) The Electricity Commissioners by an order establishing a joint electricity authority or a special order may, as regards any undertaking or part of an undertaking of any authorised undertakers, suspend any powers of a joint electricity authority or the London County Council or any local authority relating to the purchase of such undertaking or part thereof for such period and on such conditions (if any) as the Electricity Commissioners may think fit, and may for that purpose amend the provisions of any Act or order relating to such undertaking:

Provided that no such powers shall be suspended under the provisions of this section except with the consent of the authority or authorities in whom the said powers are vested.

(2) Where under the powers of this section the Electricity Commissioners suspend any powers of purchase relating to the undertaking of any authorised undertakers or any part thereof, they may make provision as to the relation between the prices which may be charged for electricity and the dividends to be paid by such undertakers.

15. *Mode of exercise of powers by authorities.*—The powers and duties as to the generation and supply of electricity conferred and imposed by or under the principal Act or this Act on joint electricity authorities may be exercised and performed by any such authority either by themselves or if so authorised by the order establishing that authority or by special order, through any authorised undertakers; and, where any such authority act through any such undertakers, the undertakers shall have, to such extent as may be provided by such order as aforesaid, the powers and duties of the authority under the principal Act and this Act.

16. *Limitation on powers of joint electricity authorities in areas of power companies.*—(1) Subsection (1) of section twelve (Powers of joint electricity authorities in respect of the supply of electricity) of the principal Act shall have effect as if—

(a) the words from "except" in paragraph (b) of that subsection to the end of that paragraph were omitted therefrom;

(b) the words "or power company" were omitted from the proviso to that subsection in each place where those words occur; and

(c) the following proviso were inserted at the end of that subsection:

Provided that, if in any particular part of the area of supply of a power company, the power company are not willing and in a position to supply electricity to any local authority, company, or person, who is prepared to enter into a binding contract with that power company to continue to receive and pay for a supply of electricity upon such terms and conditions (including the payment of a minimum annual sum) as will, in the opinion of the Electricity Commissioners, afford an adequate return to the power company and is also (in the case of a company or person) prepared to give to the power company (if required by them so to do) security for the payment of all sums which may become due to the power company under the contract, then and in such case the Electricity Commissioners may, by special order under section twenty-six of the principal Act, authorise a joint electricity authority to supply electricity in that particular part of the area of supply of the power company without the consent of the power company. In determining what terms and conditions will afford an adequate return to the power company, the Commissioners shall have regard to the following amongst other considerations:

(i) The period for which the authority, company or person requiring the supply guarantees to take the supply;

(ii) The amount of electricity and the maximum power required;

(iii) The hours during which the power company can be called upon to give the supply;

(iv) The capital expenditure in connection with the supply; and

(v) To what extent capital expended in connection with the supply may become unproductive to the power company upon the discontinuance of the supply.

17. *Special provisions as to power companies.*—(1) The Electricity Commissioners may, by the order establishing a joint electricity authority, or after the establishment of a joint electricity authority by an order made on the application of that authority, exclude from the area of supply of any power company, subject to such terms, conditions, and reservations as the Electricity Commissioners may think fit—

(a) any part of that area in which any right of the power company to supply electricity is subject to the absolute veto of some other authorised undertaker, and where the order provides for or is made conditional on the transfer to the joint electricity authority of the generating station from which a supply of electricity is given to the part of the area in question;

(b) any part of that area which at the time of the local inquiry on the scheme to which the order establishing the joint electricity authority gives effect, or, as the case may be, at the time of the application for the order, is not being supplied by the power company, and which it appears to the Electricity Commissioners could be better served by the joint electricity authority themselves or by that authority acting through any authorised undertakers; and

(c) with the consent of the power company any other part of the area of supply of the power company;

and in any such case the order may confer on the power company, subject to such conditions as the Electricity Commissioners may prescribe, power to supply electricity for all purposes in any other part of their area of supply which does not at the time form part of the area of supply of any authorised distributors:

Provided that, where on the application of a joint electricity authority it is proposed to make such an order (not being an order made under section seven of the principal Act), and the power company, or any county council, local authority, or authorised undertakers which appear to the Electricity Commissioners to be interested object to the proposed order, effect shall not be given to the proposals except by a special order under section twenty-six of the principal Act.

(2) Where in pursuance of this section any part of the area of supply of a power company is by order excluded from such area of supply—

(a) the exclusion shall not affect any rights of the power company existing immediately before the making of the order to lay mains through the part so excluded, but any such rights may continue to be exercised by the power company notwithstanding such exclusion;

(b) the exclusion shall not prevent the power company from giving a supply of electricity at any point in their remaining area for the purpose of haulage or traction on any railway, tramway, or canal, and for the purpose of lighting vehicles and vessels used on any such railway, tramway, or canal which they could have supplied if the part of the area excluded under this section had remained part of their area of supply.

(3) Section fourteen of the principal Act is repealed.

**18. Limitation on prices charged.]—**(1) The prices charged for electricity by a joint electricity authority shall be so fixed by the authority, subject to such directions as may be given by the Electricity Commissioners, that, over a term of years to be approved by the Electricity Commissioners, their receipts on income account shall be sufficient to cover their expenditure on income account (including interest and sinking fund charges), with such margin as the Electricity Commissioners may allow.

(2) If the receipts of the joint electricity authority on revenue account in any year are insufficient to meet the charges payable out of revenue in that year, the deficiency may, unless provided for out of a reserve fund, be apportioned amongst the authorised undertakers within the district of the joint electricity authority who take a supply of electricity from the joint electricity authority in proportion to the number of units of electricity supplied to them in that year: Provided that, in any case in which it appears to the joint electricity authority that the deficiency in any year can be by a reasonable adjustment of charges, or otherwise, be made good out of moneys receivable by the joint electricity authority in any succeeding year or years, or that the deficiency is so small as to justify postponement of any apportionment, the joint electricity authority shall refrain from making any such apportionment, and such deficiency may be included in the charges payable out of the revenue in any succeeding year or years.

**19. Amendment of section five of principal Act.]—**Section five of the principal Act (Electricity districts) shall have effect as if after the word "authority," in subsection (2) of that section, there had been inserted the words "or other body."

**20. Amendment of section six of principal Act.]—**Section six of the principal Act shall have effect as if after the word "interests" in subsection (1) of that section there had been inserted the words ("including the persons employed in connection with the supply of electricity"), and as if after the words "electricity district" where they last occur in that subsection there had been inserted the words "and the conditions of employment of persons employed by the Joint Electricity Authority."

**21. Amendment of section 16 of principal Act.]—**(1) Section sixteen of the principal Act shall have effect as if for the words "under this Act" there were substituted the words "under or in consequence of this Act," and as if for the words "in consequence of this Act," there were substituted the words "in consequence of any such transfer scheme, agreement or arrangement":

Provided that any question as to whether a transfer scheme, agreement or arrangement, not made under the principal Act, was in consequence of that Act, shall be determined by the Electricity Commissioners.

(2) The Minister of Labour may make rules as to the procedure before the referee or board of referees under the said section sixteen and may by those rules provide—

(a) for limiting the amount of costs and providing for the taxation thereof;

(b) for fixing the fees to be paid to the referee or members of the board of referees and for determining by whom such fees are to be paid.

**22. Methods of charging and revision of prices.]—**(1) Subsection (2) of section thirty-one of the Schedule to the Electric Lighting (Clauses) Act, 1899 (which relates to the method of charging by undertakers), is hereby repealed, and such repeal shall apply to that schedule as incorporated with any Act or order passed or confirmed before the passing of this Act, and where any such Act or order does not incorporate the Schedule to the Electric Lighting (Clauses) Act, 1899, or incorporates it subject to an exception of the said subsection, but contains a provision corresponding to the said subsection, the Act or order shall have effect as if that provision were omitted therefrom.

(2) With a view to making three years the ordinary period of revision of maximum prices, and extending the provisions as to the revision of

maximum prices to local authorities, section thirty-two of the Schedule to the Electric Lighting (Clauses) Act, 1899, as incorporated with any Act or order passed or confirmed either before or after the passing of this Act, shall have effect as if for subsection (2) thereof the provisions set out in the Schedule to this Act were substituted.

(3) With regard to any Act or order passed or confirmed before the passing of this Act which limits the price to be charged for electricity, but does not incorporate the said Schedule to the Electric Lighting (Clauses) Act, 1899, or incorporates it subject to an exception of the said section thirty-two, the Act or order shall have effect as if the provisions set out in the Schedule to this Act, *mutatis mutandis*, were contained therein in substitution for the provisions therein contained as to the revision of prices, and, where any such Act or order does not contain any provisions authorising the periodical revision of prices, the prices to be charged by the undertakers shall be subject to revision in accordance with the provisions set out in the Schedule to this Act.

(4) Where a joint electricity authority has been established, then on any revision of prices to be charged by undertakers who receive a supply of electricity either directly or indirectly from that authority, regard shall be had to the benefit to the undertakers of any reductions in the cost of electricity attributable to the establishment of the authority.

(5) Where any authorised undertakers have, before the passing of this Act, obtained an order varying the prices to be charged by them, the undertakers may apply to the Minister of Transport for an order varying the methods of charge notwithstanding that a period of three years has not elapsed since the making of the first-mentioned order.

(6) Section ten of the Electric Lighting Act, 1909 [9 Edw. 7, c. 34.], is hereby repealed.

**23. Standby supplies of electricity.]—**(1) Notwithstanding anything in the Electricity (Supply) Acts, 1882 to 1919, or in this Act, or in any other Act of Parliament, or any Provisional Order or special order made under any such Act, a person shall not be entitled to demand or continue to receive for the purposes of a standby supply only from any authorised undertakers a supply of electricity for any premises having a separate supply of electricity or a supply (in use or ready for use for the purposes for which the standby supply of electricity is required) of gas, steam, or other form of energy unless he has agreed with the undertakers to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing such standby supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises. The sum to be so paid shall be determined in default of agreement by arbitration.

(2) Section fifteen of the Electric Lighting Act, 1909, is repealed.

**24. Provision as to railways, &c.]—**Notwithstanding anything contained in any Act or order, electricity supplied by a joint electricity authority or power company within their district to any company or authority being the owners or lessees of a railway, tramway, dock, harbour or canal undertaking may be used by the company or authority receiving the supply for the purposes of haulage or traction or for lighting vehicles or vessels used on the railway, tramway, dock, harbour or canal on any part of the system of such company or authority.

**25. Power of persons not being undertakers to supply electricity.]—**(1) Notwithstanding anything to the contrary contained in any special Act or order, it shall be lawful for the owners or lessees of any railway generating station, or of any generating station erected under statutory authority for the purpose of working tramways or light railways, to supply electricity therefrom upon such terms and conditions as may be agreed—

(a) to a joint electricity authority; or

(b) to an authorised undertaker; or

(c) to any consumer, subject, in the case of premises situate within the area of supply of an authorised undertaker, to the consent of that undertaker:

Provided that no such supply shall be given under the powers conferred by this section—

(i) without the consent of the Electricity Commissioners, who before giving their consent to a supply to any consumer shall have regard to the interests of any undertakers (other than electrical undertakers) who may be affected thereby, or otherwise than subject to such conditions as the Commissioners may impose;

(ii) to any authorised distributors whose undertaking is in the area of a power company without the consent of that company;

(iii) to any premises within the district of a joint electricity authority and not within the area of any other authorised undertakers without the consent of that authority:

Provided also that nothing contained in this section shall limit or derogate from any powers already conferred on or exercisable by any owners or lessees of any railway generating station, or of any generating station erected under statutory authority for the purpose of working tramways or light railways, or apply to any agreement already or hereafter entered into in pursuance of any such powers.

(2) The Electricity Commissioners may, subject to the provisions of the Electricity (Supply) Acts, 1882 to 1919, and of the Schedules to the Electric Lighting (Clauses) Act, 1899, by order authorise the breaking up of such roads, railways, and tramways as may be necessary for the purpose of such a supply.

(3) The provisions of the Electricity (Supply) Acts, 1882 to 1919, and of the Schedule to the Electric Lighting (Clauses) Act, 1899, so far as they relate to the protection of the Postmaster-General, shall apply to any works for the supply of electricity under this section, and, in the application of those provisions, the owners or lessees mentioned in subsection (1) of this section shall be deemed to be the undertakers, and nothing in this section shall affect any right or remedy of the Postmaster-General under the Telegraph Acts, 1863 to 1921.

**26. Provision for payment off of debentures in certain cases.**—Where the generating station of any company becomes transferred to or is acquired by a joint electricity authority, and the company has created and issued debentures or debenture stock (whether irredeemable or not) charged upon such generating station, the company may, and, if so required by the trustees for the holders of the debentures or debenture stock, shall, present to the court having jurisdiction to wind up the company a scheme for the payment off in whole or in part of the debentures or debenture stock out of the proceeds of the sale, and if the court sanctions the scheme the debentures or debenture stock may, notwithstanding anything therein or in any trust deed for securing the same, be paid off accordingly:

Provided that the cost which an auditor appointed by the Electricity Commissioners certifies to have been necessarily incurred in obtaining and carrying out the scheme shall be borne and paid by the joint electricity authority.

**27. Winding up of companies.**—(1) After the whole undertaking of any company incorporated by Act of Parliament is transferred to a joint electricity authority under the principal Act, such company may, subject to the provisions of this Act, be wound up under and in accordance with the provisions of and in the same manner and with the same incidents as if the company were a company registered under the Companies Acts, 1908 to 1917, and had, on such transfer, duly passed a special resolution requiring the company to be wound up voluntarily.

(2) For the purposes of such winding up, the company shall, from and after such transfer, be deemed to be registered under the last-mentioned Acts in that part of the United Kingdom in which its principal place of business is situated, and, for the purpose of calling and holding meetings and passing resolutions and other matters incidental to such winding up, resolutions of meetings of the company convened and held in pursuance and in accordance with the provisions contained in the Acts relating to the company may and shall take effect as resolutions of a company duly registered.

**28. Expenses of London County Council.**—Any expense incurred by the London County Council under or in pursuance of this Act or the Electricity (Supply) Acts, 1882 to 1919, shall be defrayed as expenses for general county purposes.

**29. Extension of period for repayment of money borrowed by Scottish local authorities.**—In the application of section one of the Electric Lighting (Scotland) Act, 1902 [2 Edw. 7, c. 35], to money borrowed after the passing of this Act, a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the period within which money borrowed by a local authority within the meaning of the Schedule to the Electric Lighting (Scotland) Act, 1890 [53 & 54 Vict., c. 13], is to be repaid.

**30. Application to Scotland.**—This Act shall apply to Scotland subject to the following modifications:—

(1) "Receiver" means "judicial factor":

(2) In the application of the section of this Act relating to power of undertakers, &c. to give financial assistance—

(a) References to a county district and to a metropolitan borough shall not apply;

(b) References to a borough or a municipal borough shall be construed as references to any burgh to which the Town Councils (Scotland) Act, 1900 [63 & 64 Vict., c. 49], applies;

(c) For the references to the Minister of Health, to the Local Government Act, 1888, and to the Public Health Act, 1875, there shall be substituted references respectively to the Secretary for Scotland, to the Local Government (Scotland) Act, 1889 [52 & 53 Vict., c. 50], and to the Public Health (Scotland) Act, 1897 [60 & 61 Vict., c. 38];

(d) Any expenses incurred by a county council under the said section shall be defrayed out of the general purposes rate: Provided that—

(i) notwithstanding anything contained in the Local Government (Scotland) Act, 1889, the ratepayers of a police burgh shall not be assessed by a county council for any such expenses; and

(ii) any expenses so incurred by a town council shall be defrayed out of the public health general assessment, but such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment.

**31. Short title, construction, and extent.**—(1) This Act may be cited as the Electricity (Supply) Act, 1922, and the Electricity (Supply) Acts, 1882 to 1919, and this Act shall be construed together as one Act, and may be cited as the Electricity (Supply) Acts, 1882 to 1922.

(2) This Act shall not extend to Ireland.

## SCHEDULE.

[Section 22.]

PROVISION TO BE SUBSTITUTED FOR SECTION 32 (2) OF THE SCHEDULE TO THE ELECTRIC LIGHTING (CLAUSES) ACT 1899.

Provided that if either—

(a) the undertakers; or

(b) such number of consumers not less than twenty as the Minister of Transport considers sufficient having regard to the population of the area of supply; or

(c) in a case where the local authority are not themselves the undertakers the local authority; or

(d) in a case where the local authority are not themselves the undertakers and the area of supply is situate wholly or partly within the county of London, the London County Council,

at any time after the expiration of three years after the confirmation of the special order make a representation to the Minister that the prices or methods of charge stated in the special order or approved by the Minister ought to be altered, the Minister, after such inquiry as he may think fit, may make an order varying the prices or methods of charge stated in the special order or so approved as aforesaid, or substituting other prices or methods of charge in lieu thereof, and the prices or methods of charge so varied or substituted shall have effect on and after such day as may be mentioned in the order as if they had been stated in the special order:

Provided also that the prices and methods of charge for the time being in force may be altered in like manner at any time after the expiration of any or every period of three years after they were last altered.

## CHAPTER 47.

RAILWAY AND CANAL COMMISSION (CONSENTS) ACT, 1922.

An Act to amend the Law as respects certain matters in connection with which the consent of the Railway and Canal Commission is required.

[4th August, 1922.]

Be it enacted, &c. :—

**1. Provisions as to consents by the Railway and Canal Commission under 6 & 7 Geo. 5, c. 63.**—(1) Where before the thirty-first day of August, nineteen hundred and twenty-two, an application has been made to the Railway and Canal Commission under subsection (3) of section six of the Defence of the Realm (Acquisition of Land) Act, 1916 (hereinafter referred to as the principal Act), for the consent of the Commission to any highway being kept closed after that date, the highway may be kept closed until the application has been disposed of by the Commission, but not for more than six months after the said thirty-first day of August unless the Commission in any particular case allow a longer time; and where the Commission on any such application consent to the highway being kept closed for a limited period, the Commission may subsequently, on any application being made at any time before the expiration of such limited period, extend that period.

(2) Where an application has before the twenty-eighth day of February, nineteen hundred and twenty-three, been made to the Railway and Canal Commission for their consent to the occupying department continuing in the possession of land, and the application is not disposed of by the Commission before the thirty-first day of August, nineteen hundred and twenty-three, the occupying department may continue in possession of the land until the application has been disposed of, but not for more than six months after the thirty-first day of August, nineteen hundred and twenty-three, unless the Commission in any particular case allow a longer time: Provided that this subsection shall not apply to commons or common lands.

(3) Where the consent of the Railway and Canal Commission is necessary to the acquisition of any land under section three of the principal Act, and an application is made to the Commission for their consent before the expiration of the period within which the power of acquisition must be exercised, and the Commission give their consent, the power of acquisition may be exercised if notices to treat are served within three months after the consent of the Commission is given, notwithstanding that the time within which the power must be exercised under the said section has elapsed.

**2. Short title.**—This Act may be cited as the Railway and Canal Commission (Consents) Act, 1922.

## CHAPTER 48.

EDUCATION (SCOTLAND) (SUPERANNUATION) ACT, 1922.

An Act to provide for the payment of contributions towards the costs of benefits under the scheme framed and approved in terms of the Education (Scotland) (Superannuation) Act, 1919, and for matters incidental thereto, and for the payment from the Consolidated Fund of deferred annuities in respect of contributions under the Elementary School Teachers (Superannuation) Act, 1898.

[4th August, 1922.]

## CHAPTER 49.

## POST OFFICE (PARCELS) ACT, 1922.

An Act to amend the Law with respect to the Remuneration of Railway Companies for the conveyance of Parcels. [4th August, 1922.]

Be it enacted, &c.:—

1. *Remuneration to railway companies for carriage of parcels.*—The Post Office (Parcels) Act, 1882 [45 & 46 Vict. c. 74], shall have effect as if in paragraph (2) of section two thereof (which fixes the amount of railway remuneration)—

(a) "two-fifths of the gross receipts" were substituted for "eleven-twentieth parts of the gross receipts" wherever that expression occurs; and

(b) a reference to the weights of or rates of postage for parcels mentioned in the Schedule to this Act were substituted for the reference to those mentioned in the Second Schedule to that Act; and

(c) there were added to the grounds on which a revision of the amount of the railway remuneration may be required, the ground that the number of parcels conveyed otherwise than by rail exceeds ten per cent. of the total number of parcels transmitted by post, whether borne by rail, road, or any other method of transport:

Provided that, where the amount of the railway remuneration is revised on the ground last herein mentioned, such revision shall take effect as from the date when such excess as aforesaid first occurred.

2. *Ascertainment of number of parcels conveyed by various methods of transport.*—The returns which, under section three of the Post Office and Telegraph Act, 1920 [11 & 12 Geo. 5, c. 40], the Postmaster-General is required in every year to cause to be made, shall include returns showing the proportion of the total number of parcels transmitted by post which is conveyed by rail and by other methods of transport respectively, and that section shall have effect accordingly.

3. *Short title, repeal, application, and commencement.*—(1) This Act may be cited as the Post Office (Parcels) Act, 1922.

(2) Subsection (2) of section two of the Post Office and Telegraph Act, 1915 [5 & 6 Geo. 5, c. 82], is hereby repealed.

(3) This Act shall not apply to any part of Ireland other than Northern Ireland.

(4) This Act shall be deemed to have had effect as from and after the fifteenth day of August, nineteen hundred and twenty-one.

## SCHEDULE.

## [Section 1.]

## WEIGHTS OF AND RATES OF POSTAGE.

PARCELS.	s.	d.
For a parcel not exceeding 2 lb. in weight ... ..	0	9
For a parcel exceeding 2 lb. but not exceeding 5 lb. ... ..	1	0
For a parcel exceeding 5 lb. but not exceeding 8 lb. ... ..	1	3
For a parcel exceeding 8 lb. but not exceeding 11 lb. ... ..	1	6

## CHAPTER 50.

## EXPIRING LAWS ACT, 1922.

An Act to deal with certain Expiring Laws by making some of them permanent, repealing others, and continuing the remainder for a limited period. [4th August, 1922.]

## CHAPTER 51.

## ALLOTMENTS ACT, 1922.

An Act to amend the law relating to Allotments. [4th August, 1922.]

Be it enacted, &c.:—

1. *Determination of tenancies of allotment gardens.*—(1) Where land is let on a tenancy for use by the tenant as an allotment garden or is let to any local authority or association for the purpose of being sub-let for such use the tenancy of the land or any part shall not (except as hereinafter provided) be terminable by the landlord by notice to quit or re-entry, notwithstanding any agreement to the contrary, except by—

(a) a six months' or longer notice to quit expiring on or before the sixth day of April or on or after the twenty-ninth day of September in any year; or

(b) re-entry, after three months' previous notice in writing to the tenant, under a power of re-entry contained in or affecting the contract of tenancy on account of the land being required for building, mining or any other industrial purpose or for roads or sewers necessary in connection with any of those purposes; or

(c) re-entry under a power in that behalf contained in or affecting the contract of tenancy in the case of land let by a corporation or company being the owners or leasees of a railway, dock, canal, water, or other public undertaking on account of the land being required by the corporation, or company, for any purpose (not being the use of the land for agriculture) for which it was acquired or held by the corporation, or company, or has been appropriated under any statutory provision, but so that, except in a case of emergency, three months' notice in writing of the intended re-entry shall be given to the tenant; or

(d) re-entry under a power in that behalf contained in or affecting the contract of tenancy, in the case of land let by a local authority (being land which was acquired by the local authority before the passing of this Act under the Housing Acts, 1890 to 1921) on account of the land being required by the local authority for the purposes of those Acts, and, in the case of other land let by a local authority, after three months' previous notice in writing to the tenant on account of the land being required by the local authority for a purpose (not being the use of land for agriculture) for which it was acquired by the local authority, or has been appropriated under any statutory provision; or

(e) re-entry for non-payment of rent or breach of any term or condition of the tenancy or on account of the tenant becoming bankrupt or compounding with his creditors, or where the tenant is an association, on account of its liquidation.

(2) This section shall apply to a tenancy current at the date of the passing of this Act, but not so as to affect the operation of any notice to quit given, or proceedings for recovery of possession commenced, before that date.

(3) Where under any contract of tenancy to which this section applies, made before the passing of this Act, the tenancy is either by express provision or by implication made terminable by the landlord by notice to quit expiring on a date between the sixth day of April and the twenty-ninth day of September, the tenancy shall be terminable by him on the twenty-ninth day of September, and any such notice to quit given in accordance with the contract shall have the effect of a notice to quit on that day.

(4) This section shall not apply to land held by or on behalf of the Admiralty, War Department, or Air Council, and so let as aforesaid when possession of the land is required for naval, military, or air force purposes.

2. *Compensation on quitting allotment gardens.*—(1) Where under any contract of tenancy land is, before or after the passing of this Act, let for use by the tenant as an allotment garden, the tenant shall, subject to the provisions of this section and notwithstanding any agreement to the contrary, be entitled at the termination of the tenancy, on quitting the land, to obtain from the landlord compensation as provided by this section.

(2) Subject to the provisions of this section, compensation shall be recoverable under this section only if the tenancy is terminated by the landlord and is so terminated either—

(a) between the sixth day of April and the twenty-ninth day of September; or

(b) by re-entry at any time under paragraph (b) or paragraph (c) or paragraph (d) of sub-section (1) of the last preceding section.

(3) The compensation recoverable from the landlord under this section shall be for crops growing upon the land in the ordinary course of the cultivation of the land as an allotment garden or allotment gardens, and for manure applied to the land.

(4) A tenant whose tenancy is terminated by the termination of the tenancy of his landlord shall be entitled to recover from his landlord such compensation (if any) as would have been recoverable if his tenancy had been terminated by notice to quit given by his landlord.

(5) Any sum due to the landlord from the tenant in respect of rent or of any breach of the contract of tenancy under which the land is held, or wilful or negligent damage committed or permitted by the tenant, shall be taken into account in reduction of the compensation.

(6) This section shall also apply to any contract of tenancy made after the passing of this Act by which land is let to any local authority or association for the purpose of being sublet for use by the tenants as allotment gardens and, notwithstanding that the crops have been grown and the manure applied by the tenants of the local authority or association, section twenty-three of the Land Settlement (Facilities) Act, 1919 [9 & 10 Geo. 5, c. 59], shall not apply to land let after the passing of this Act to any local authority or association for the purpose of being sub-let for use by the tenants as allotment gardens.

(7) This section shall apply to the termination of the tenancy of the whole or any part of the land the subject of a contract of tenancy.

(8) Except as provided by this section or by the contract of tenancy, the tenant of land under a contract of tenancy to which this section applies shall not be entitled to recover compensation from the landlord at the termination of the tenancy.

(9) If the tenancy of the tenant is terminated on the twenty-ninth day of September or the eleventh day of October, or at any date between those days, either by notice to quit given by the landlord or by the termination of the tenancy of the landlord, the tenant whose tenancy is so terminated shall be entitled at any time within twenty-one days after the termination of the tenancy to remove any crops growing on the land.

(10) This section shall not apply to any tenancy which is terminated by the effluxion of time before the date of the passing of this Act, or, where a notice to quit has been given, re-entry has been made or proceedings for recovery of possession have been commenced before that date.

3. *Provision as to cottage holdings and certain allotments.*—(1) The foregoing provisions of this Act as to determination of tenancies of allotment gardens and compensation to a tenant on quitting the same shall not apply of any parcel of land attached to a cottage.

(2) In the case of any allotment within the meaning of this section (not being an allotment garden), the tenant shall, on the termination of his tenancy

by effluxion of time, or from any other cause, be entitled, notwithstanding any agreement to the contrary, to obtain from the landlord compensation for the following matters:—

(a) For crops, including fruit, growing upon the land in the ordinary course of cultivation and for labour expended upon and manure applied to the land; and

(b) For fruit trees or bushes provided and planted by the tenant with the previous consent in writing of the landlord, and for drains, out-buildings, pigsties, fowl-houses, or other structural improvements made or erected by and at the expense of the tenant on the land with such consent.

(3) Any sum due to the landlord from the tenant in respect of rent or of any breach of the contract of tenancy under which the land is held, or wilful or negligent damage committed or permitted by the tenant, shall be taken into account in reduction of the compensation.

(4) The amount of the compensation shall, in default of agreement, be determined and recovered in the same manner as compensation is, under this Act, to be determined and recovered in the case of an allotment garden.

(5) The Agricultural Holdings Acts, 1908 to 1921, shall, in the case of an allotment within the meaning of this section to which those Acts apply, have effect as if the provisions of this section as to the determination and recovery of compensation were substituted for the provisions of those Acts as to the determination and recovery of compensation, and a claim for compensation for any matter or thing for which a claim for compensation can be made under this section, may be made either under those Acts or under this section, but not under both.

(6) The compensation in respect of an improvement made or begun on an allotment (not being an allotment garden) before the passing of this Act shall be such (if any) as could have been claimed if this Act had not been passed.

(7) In this section the expression "allotment" means any parcel of land, whether attached to a cottage or not of not more than two acres in extent, held by a tenant under a landlord and cultivated as a farm or a garden, or partly as a garden and partly as a farm.

4. *Further provision as to allotment gardens and allotments.*—(1) A tenant of land held under a contract of tenancy to which any of the foregoing provisions of this Act apply may, before the termination of the tenancy, remove any fruit trees or bushes provided and planted by the tenant and any erection, fencing or other improvement erected or made by and at the expense of the tenant, making good any injury caused by such removal.

(2) A tenant of land held under a contract of tenancy to which any of the foregoing provisions of this Act apply and which is made with a mortgagee but is not binding on the mortgagee, shall, on being deprived of possession by the mortgagee, be entitled to recover compensation from him as if he were the landlord and had then terminated the tenancy, but subject to the deduction from such compensation of any rent or other sum due from the tenant in respect of the land.

5. *Rights of tenant who has paid compensation to out-going tenant.*—Where a tenant of an allotment has paid compensation to an outgoing tenant for any fruit trees or bushes or other improvement, he shall have the same rights as to compensation or removal as he would have had under this Act if the fruit trees or bushes had been provided and planted or the improvement had been made by him and at his expense.

6. *Assessment and recovery of compensation.*—(1) The compensation under the foregoing provisions of this Act, and such further compensation (if any) as is recoverable under the contract of tenancy shall, in default of agreement, be determined by a valuation made by a person appointed in default of agreement by the judge of the county court having jurisdiction in the place where the land is situated, on an application in writing being made for the purpose by the landlord or tenant, and, if not paid within fourteen days after the amount is agreed or determined, shall be recoverable upon order made by the county court as money ordered to be paid by a county court under its ordinary jurisdiction, is recoverable.

(2) The proper charges of the valuer for the valuation shall be borne by the landlord and tenant in such proportion as the valuer shall direct, but be recoverable by the valuer from either of the parties and any amount paid by either of the parties in excess of the amount (if any) directed by the valuer to be borne by him shall be recoverable from the other party and may be deducted from any compensation payable to such party.

7. *Application to Crown lands.*—The foregoing provisions of this Act shall not apply to any land of which possession was taken by or on behalf of any Government department under the enactments relating to the Defence of the Realm or the regulations made thereunder and possession of which has been continued by virtue of any enactment, or to any land forming part of a royal park; but, save as aforesaid, the foregoing provisions of this Act shall apply to land vested in His Majesty in right of the Crown or the Duchy of Lancaster, and to land forming part of the possessions of the Duchy of Cornwall, and, except as otherwise hereinbefore expressly provided, to land vested in any Government department for public purposes.

8. *Amendment of statutory provisions as to compulsory acquisition of land for allotments.*—(1) The period during which an order for the compulsory acquisition of land for allotments is, under section one of the Land Settlement (Facilities) Act, 1919 [9 & 10 Geo. 5, c. 59], exempted from the requirement of submission to and confirmation by the Minister is hereby extended to the thirty-first day of December, nineteen hundred and twenty-two.

(2) The restrictions imposed by section forty-one of the Small Holdings and Allotments Act, 1908 [8 Edw. 7, c. 36], on the compulsory acquisition of land which has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking shall not apply to the hiring of land by a council of a borough or urban district or by the council of a county to whom the powers and duties of a borough or urban district council have been transferred under the provisions of subsection (2) of section twenty-four of the Small Holdings and Allotments Act, 1908, for the purpose of providing allotment gardens:

Provided that every such hiring shall be subject to a condition enabling—

(a) the corporation or company to resume possession of the land when required by the corporation or company for the purpose (not being the use of land for agriculture) for which it was acquired by the corporation or company; and

(b) nothing in this subsection shall prejudice the protection given by the said section forty-one to land which is the property of a local authority.

(3) Notwithstanding anything contained in any other enactment, counsel shall not be heard in any arbitration under this Act or as to compensation payable for land acquired for allotments under the Allotments Acts unless the Minister otherwise directs.

(4) No land shall be authorised by an order under the Allotments Acts to be hired compulsorily for the purposes of allotments which at the date of the order is pasture land if it is proved to the satisfaction of the Minister that arable land which is equally suitable for the purpose of allotments to the pasture land proposed to be compulsorily hired is reasonably available for hiring by the council.

(5) Paragraph 2 (b) of Part II of Schedule I to the Small Holdings and Allotments Act, 1908 (which restricts the breaking up of pasture compulsorily hired) shall not apply to land compulsorily hired for the provision of allotment gardens.

9. *Purchase of land for fee-farm rents.*—The provisions of the Small Holdings and Allotments Acts, 1908 to 1919, enabling grants of land to be made to a county council for the purposes of small holdings at fee farm and other rents, and authorising a county council to covenant to pay any such rent, shall apply with the necessary adaptations to the acquisition of land by the council of a borough or urban district for the purpose of providing allotments.

10. *Powers of entry on unoccupied land.*—(1) The council of a borough or urban district, or the council of a county to whom the powers and duties of a borough or urban district council have been transferred under the provisions of subsection (2) of section twenty-four of the Small Holdings and Allotments Act, 1908, may, after giving such notice of intention to enter as is hereinafter provided—

(a) enter upon any land to which this section applies for the purpose of providing allotment gardens thereon;

(b) adapt any such land for use for such purpose;

(c) let any such land for use by the tenant as an allotment garden or to any association (being an association to which land may be let by the council under the Small Holdings and Allotments Acts, 1908 to 1919) for the purpose of sub-letting for such use, but so that any tenancy created by the council shall terminate at the date when the right of occupation of the council is terminated under this section;

(d) on the termination of such occupation remove any erection or work of adaptation making good any injury to the land caused by such removal.

(2) Before entry under this section, the council shall give not less than fourteen days' notice in writing to the owner of the land, in such manner as notices may be given to an owner under the regulations for the time being applicable to compulsory hiring of land under the Allotments Acts.

(3) The right of occupation of the council may be terminated—

(a) by not less than six months' notice in writing to that effect given by the council to the owner in manner aforesaid, and expiring on or before the sixth day of April, or on or after the twenty-ninth day of September in any year; or

(b) by not less than two months' notice in writing given by the owner to the council in any case where the land is required for any purpose other than the use of the land for agriculture.

(4) A tenant to whom land is let by a council under this section and whose tenancy is terminated by the termination of the right of occupation of the council shall, unless otherwise agreed in the contract of tenancy, be entitled to recover from the council such compensation (if any) as would have been recoverable if his tenancy had been terminated by notice to quit given by the council, and have the same right to remove his crops as if the tenancy had been so terminated.

(5) Any person who is interested in any land on which entry is made by the council under this section, and who suffers any loss by reason of the exercise of the powers conferred by this section shall, if he makes a claim not later than one year after the termination of the right of occupation, be entitled to be paid by the council such amount or amounts by way of periodical payments or otherwise as may represent the loss, and such amount or amounts shall in default of agreement be determined by a valuation made by a person appointed, in default of agreement, by the Minister:

Provided that a periodical payment of compensation in the nature of rent shall not exceed the rental value of the land as defined by this section.

## (6) This section applies to—

(a) land which at the date of the notice of intended entry is not the subject of a rateable occupation; or

(b) land of which at the date of the notice of intended entry the Minister is in possession by himself or any person deriving title under him under the provisions of section one of the Defence of the Realm (Acquisition of Land) Act, 1916 [6 & 7 Geo. 5, c. 63], as explained by section thirty of the Land Settlement (Facilities) Act, 1919, and which when possession thereof was first taken under the Defence of the Realm Regulation was not the subject of a rateable occupation;

except land being the property of a local authority or land which has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or forming part of any metropolitan common within the meaning of the Metropolitan Commons Act, 1866 [29 & 30 Vict., c. 122], or any land which is subject, or might be made subject, to regulation under an order or scheme made in pursuance of the Inclosure Acts, 1845 to 1899, or under any local Act or otherwise, or land which is or forms part of any town or village green, or any area dedicated or appropriated as a public park, garden, or pleasure ground, or for use for the purposes of public recreation, or land forming part of the New Forest (as defined in the New Forest Act, 1877 [40 & 41 Vict., c. cxxii]), or of the trust property to which the National Trust Act, 1907 [7 Edw. 7, c. cxxxvii], applies.

## (7) For the purposes of this section—

The expression "rental value" means the annual rent which a tenant might reasonably be expected to pay for the land if the land had continued in the same condition as at the date when entry was made under this section, or at the date when possession thereof was so first taken as aforesaid, as the case may be.

The expression "rateable occupation" means such occupation as would involve liability to payment of the poor rate or any rate leviable in like manner as the poor rate.

The expression "owner" includes the person who, but for the occupation of the council, would be entitled to the possession of the land.

**11. Determination of questions arising on resumption of land.**—(1) Where land has been let to a local authority or to an association for the purpose of being sub-let for use as allotment gardens, or is occupied by a council under the powers of entry conferred by this Act, and the landlord, or the person who but for such occupation would be entitled to the possession of the land, proposes to resume possession of the land in accordance with the provisions of this Act for any particular purpose, notice in writing of the purpose for which resumption is required shall be given to the local authority or association.

(2) The local authority or association may, by a counter notice served within ten days after receipt of such notice on the person requiring possession, demand that the question as to whether resumption of possession is required in good faith for the purpose specified in the notice shall be determined by arbitration under and in accordance with the provisions of the Second Schedule to the Agricultural Holdings Act, 1908.

(3) Possession of the land shall not be resumed until after the expiration of the said period of ten days or the determination of such question as aforesaid where such determination is demanded under this section.

(4) This section shall not apply to any case where resumption of possession is required by a corporation or company being the owners or lessees of a railway, dock, canal, water, or other public undertaking.

**12. Time limit for serving notice to treat for compulsory acquisition of land.**

—(1) Where an order has been made for the compulsory acquisition of any land and notice to treat thereunder is not served by the acquiring authority within three calendar months after the date of the said order, or where confirmation of the said order is necessary, then after the date of the confirmation thereof the order so far as it relates to land in respect of which notice to treat has not been so served shall become null and void.

(2) Where an order has so become null and void as respects any land, no order authorising the compulsory acquisition of that land or any part of such land shall, if made within three months after the expiration of the said three calendar months, be valid, unless confirmed by the Minister, or be so confirmed, unless it is proved to the satisfaction of the Minister that there are special reasons justifying the failure to exercise the powers under the original order and the making of the order submitted for confirmation.

**13. Restriction of obligations of urban authorities to provide allotments.**—The obligation of a council of a borough or urban district under the Allotments Acts to provide allotments shall, if the population thereof is ten thousand or upwards, be limited to the provision of allotment gardens not exceeding twenty poles in extent.

**14. Allotment committees of urban authorities.**—(1) The council of every borough or urban district with a population of ten thousand or upwards shall, unless exempted by the Minister, after consultation with the Minister of Health, from the provisions of this section, establish an allotments committee, which may be an existing committee of the council or a sub-committee of an existing committee and all matters relating to the exercise and performance by the council of their powers and duties under the Allotments Acts as respects the provision of allotment gardens (except the power of raising a rate or borrowing money) shall stand referred to such committee, and the council before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the

committee with respect to the matter in question, and the council may delegate to the committee, with or without restrictions, any of their said powers except as aforesaid.

(2) An allotments committee established under this section shall comprise persons, other than members of the council, being persons experienced in the management and cultivation of allotment gardens and representative of the interests of occupiers of allotment gardens in the borough or district, provided that the number of such representative members shall be not more than one-third of the total number of the members of the committee or be less than two or one-fifth of such total number whichever be the larger number.

(3) The accounts of any receipts or payments by or to a committee under powers delegated under this section shall be accounts of the council and made up and audited accordingly.

(4) In the case of a county borough, the council may appoint their small holdings committee, if constituted so as to comply with the provisions of this section, to be their allotment committee under this section.

**15. Power for county councils to let land for allotments.**—A county council may let land acquired or appropriated by the council for small holdings for cultivation as an allotment, or to a local authority or association, being an association to which land may be let by a council under the Small Holdings and Allotments Acts, 1908 to 1919, for the purpose of being sub-let for such use: Provided that this section shall not be deemed to authorise a council to let any land held by the council under a contract of tenancy or the use of any land so held in contravention of any term or condition of the contract.

**16. Limitation on expenditure on allotments and rents to be charged.**

(1) A council shall not take any proceedings under the provisions of the Allotments Acts relating to allotments, unless in the opinion of the council the expenses of the council incurred under those provisions (other than such expenses as are hereinafter specified) may reasonably be expected, after the proceedings are taken, to be defrayed out of the receipts of the council under those provisions.

(2) For the purposes of this section, expenses and receipts shall be calculated in such manner as the Minister of Health may direct, and shall include expenses and receipts in respect of land acquired whether before or after the passing of this Act:

Provided that such expenses shall not include—

(a) expenses in relation to the acquisition of land other than the purchase price or rent, or other compensation payable in respect of the land;

(b) expenses incurred in making roads to be used by the public;

(c) sinking fund charges in respect of loans raised in connection with the purchase of land.

(3) Land let by a council under the Allotments Acts for use as an allotment shall be let at the full fair rent for such use and not more than a quarter's rent (except where the yearly rent is twenty shillings or less) shall be required to be paid in advance.

**17. Rating of allotments.**—(1) A council providing land for allotments whether under the Allotments Acts or otherwise may, by notice to the authority by which any rate is levied, require that the council shall be assessed to the rate as the occupiers of the land notwithstanding that the land or part thereof may be let, and in such case the council shall, for the purposes of any rate levied by that authority and made after the notice is given and before the notice is withdrawn, be deemed to be the occupiers of the land.

(2) The foregoing subsection shall apply to an association providing land for allotments in like manner as it applies to a council, if at the request of the association the authority by which a rate is levied agrees that it shall so apply.

**18. Financial provisions.**—(1) The maximum period for the repayment of money borrowed by the council of a borough or urban district or parish under the Allotments Acts shall, where the purpose for which the money is borrowed is the purchase of land for allotments, be eighty years, and the provisions of subsection (2) of section fifty-two of the Small Holdings and Allotments Act, 1908, relating to loans by the Public Works Loan Commissioners for small holdings shall extend to money borrowed by any such council for the purpose of providing allotments.

(2) Money borrowed by a council for the purpose of providing allotments shall not be reckoned as part of the total debt of the council for the purpose of any enactment limiting the powers of borrowing by the council.

**19. Penalty for damage to an allotment garden.**—(1) Any person who by any act done without lawful authority or by negligence causes damage to any allotment garden or any crops or fences or buildings thereon shall be liable on summary conviction to a penalty not exceeding five pounds, but this provision shall not apply unless notice of this provision is conspicuously displayed on or near the allotment garden.

(2) Subsection (4) of section twenty-one of the Land Settlement (Facilities) Act, 1919, is hereby repealed.

**20. Action in default of certain local authorities.**—If it appears to the Minister, in relation to the London County Council or the council of any county borough or Metropolitan borough, after holding a local inquiry at which the council, and such other persons as the person holding the inquiry, may, in his discretion, think fit to allow, shall be permitted to appear and be heard, that the council have failed to satisfy to the extent to which it is reasonably practicable, having regard to the provisions of the Allotments

Acts, the demand for allotment gardens to be provided by the council the Minister may, by order, transfer to the Small Holdings Commissioners all or any of the powers of the council relating to the provision of allotment gardens and the provisions of section twenty-four of the Small Holdings and Allotments Act, 1908, shall apply as if references to the Commissioners were substituted for references to the county council and with such other adaptations as may be made by the order.

**21. Provision as to parts of New Forest now used for allotment gardens.**—

(1) Notwithstanding anything in any other Act, the Commissioners of Woods may let for any term to a local authority under the Allotments Acts, and the local authority may take for the purpose of providing allotment gardens any land in the Forest (as defined in the New Forest Act, 1877) which is vested in His Majesty and was on the fifth day of April, nineteen hundred and twenty-two, being used for the provision of allotment gardens, and, with the consent of the Minister, such further land in the forest not exceeding sixty acres, as may be agreed between the Commissioners of Woods and the Verderers of the Forest:

Provided that, if at any time any land so let is used for any purpose other than the provision of allotment gardens, the lease shall become void and the land shall revert to His Majesty and be held in the same manner as it was held before its use for the provision of allotment gardens and subject to the same rights and liabilities so far as practicable.

(2) While a lease under this section has effect any land let thereunder shall be free from all rights of common and all other similar rights and privileges except the right of the public to use any highway on the land.

(3) Any rent received by the Commissioners under the lease shall be divisible between the Commissioners and the Verderers of the Forest in such proportions as may be agreed, or, in default of agreement, may be determined by the arbitration of a single arbitrator under the Arbitration Act, 1889 [52 & 53 Vict., c. 49], and the proportion received by the Verderers shall be applied as money received by the Verderers under the New Forest Act, 1877.

(4) Any inclosure under the Poor Relief Act, 1831 [1 & 2 Will. 4, c. 42], or any amending Act, of land in the forest made after the passing of this Act shall be void.

**22. Interpretation.**—(1) For the purposes of this Act, where the context permits—

The expression "allotment garden" means an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family;

The expression "landlord" means in relation to any land the person for the time being entitled to receive the rents and profits of the land;

The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under this Act in respect of compensation and shall include the legal personal representative of either party;

The expression "council" shall, in the case of a rural parish not having a parish council, mean the parish meeting;

The expression "industrial purpose" shall not include use for agriculture, and the expression "agriculture or sport" includes forestry, horticulture, or the keeping and breeding of livestock;

The expression "the Allotments Acts" means the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, which relate to allotments and this Act;

The expression "Minister" means the Minister of Agriculture and Fisheries;

The expression "borough" includes a metropolitan borough;

The expression "sinking fund charges" includes any charges for the repayment of loans whether by means of a sinking fund or otherwise.

(2) For the purposes of this Act, references to population shall be construed as references to population according to the published returns of the last census for the time being.

(3) Compensation recoverable by a tenant under this Act for crops or other things shall be based on the value thereof to an incoming tenant.

(4) Where land is used by the tenant thereof as an allotment garden, then, for the purposes of this Act, unless the contrary is proved—

(a) the land shall be deemed to have been let to him to be used by him as an allotment garden; and

(b) where the land has been sublet to him by a local authority or association which holds the land under a contract of tenancy, the land shall be deemed to have been let to that authority or association for the purpose of being sub-let for such use as aforesaid.

(5) The powers conferred by this Act on a council of a borough, may, in London, be exercised by the London County Council.

(6) For removing doubts, it is hereby declared that the expression "holding" in the Agricultural Holdings Act, 1908, and in the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919 [9 & 10 Geo. 5, c. 63], does not include any allotment garden or any land cultivated as a garden unless it is cultivated wholly or mainly for the purpose of the trade or business of market gardening.

**23. Short title, commencement, and repeal.**—(1) This Act may be cited as the Allotments Act, 1922, and the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, which relate to allotments and this Act may be cited together as the Allotments Acts, 1908 to 1922.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

(3) This Act shall not apply to Scotland or Ireland.

SCHEDULE.

[Section 23.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 & 9 Vict., c. 118.	The Inclosure Act, 1845.	In section one hundred and ten from "Provided" to the end of the section.
50 & 51 Vict., c. 26.	The Allotments and Cottage Gardens Compensation for Crops Act, 1887.	The whole Act.
53 & 54 Vict., c. 90.	The Tenants Compensation Act, 1890.	The whole Act.
8 Edw. 7, c. 36.	The Small Holdings and Allotments Act, 1908.	Subsection (3) of section twenty-five. Subsection (1) of section twenty-seven, in section thirty the proviso to subsection (2).
10 & 11 Geo. 5, c. 76.	The Agriculture Act, 1920.	Section eleven.

CHAPTER 52.

ALLOTMENTS (SCOTLAND) ACT, 1922.

An Act to amend the Law relating to Allotments in Scotland.

[4th August, 1922.]

CHAPTER 53.

WAR SERVICE CANTEENS (DISPOSAL OF SURPLUS) ACT,

1922.

An Act to make provision with respect to the disposal of sums received in respect of the carrying on and liquidation of the Expeditionary Force Canteens and the Navy and Army Canteen Board.

[4th August, 1922.]

CHAPTER 54.

MILK AND DAIRIES (AMENDMENT) ACT, 1922.

An Act to postpone for a further period the operation of the Milk and Dairies (Consolidation) Act, 1915, and the Milk and Dairies (Scotland) Act, 1914, to make further provision with regard to the sale of milk and for purposes connected therewith.

[4th August, 1922.]

Be it enacted, &c.:—

**1. Postponement of 5 & 6 Geo. 5, c. 66.**—The Milk and Dairies (Consolidation) Act, 1915, shall, notwithstanding anything contained in section twenty-one of that Act, not come into operation before the first day of September, nineteen hundred and twenty-five, except in so far as it repeals the Milk and Dairies Act, 1914 [4 & 5 Geo. 5, c. 49], and the Milk and Dairies Acts Postponement Act, 1915 [5 & 6 Geo. 5, c. 59].

**2. Power to refuse registration of, or remove from register, retailers of milk.**

—(1) Any local authority by whom a register of purveyors of milk is kept under or in pursuance of any enactment in that behalf, may, if they are satisfied that the public health is or is likely to be endangered by any act or default of any person who is registered or who seeks to be registered therein as a retail purveyor of milk, in relation to the quality, storage or distribution of milk, serve upon him a notice to appear before them not less than seven days after the date of the notice to show cause why the local authority should not, for reasons to be specified in the notice, refuse to register him or remove him from the register, as the case may be, either absolutely or in respect of any specified premises, and if he fails to show cause to their satisfaction accordingly they may refuse to register him or remove him from the register, as the case may be.

Any person aggrieved by any such decision of the local authority as aforesaid may, within twenty-one days, give notice of appeal to a court of summary jurisdiction, and that court may require the local authority to register such person or not to remove him from the register.

The local authority or such person as aforesaid may appeal from the decision of the court of summary jurisdiction to the next practicable court of quarter sessions, who may confirm or reverse the order of the court of summary jurisdiction.

The decision of a local authority to refuse registration or to remove any person from the register under this section shall not have effect until the expiration of the time for appeal to a court of summary jurisdiction nor, where any such appeal is brought, until the appeal is determined; and where notice of appeal from a court of summary jurisdiction under this section is given within seven days from the date thereof, such decision of the local authority as aforesaid shall not take effect until the appeal to quarter sessions is finally determined.

Where the appeal is from a refusal to register, such person as aforesaid may, until the appeal is finally determined, carry on business as a purveyor of milk notwithstanding that he is not registered.

(2) The court before whom any person registered as a purveyor of milk is convicted of any offence under this Act, or any other enactment relating to milk and dairies, or any order or regulations made thereunder, may, on the application of the local authority, in addition to any other penalty, order the removal from the register of the person so convicted either absolutely or in respect of any specified premises for such period as the court may think fit.

(3) Any enactment or order requiring a local authority to keep a register of persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk shall have effect as if it required the local authority to keep a register of persons carrying on the trade of retail purveyors of milk and a separate register of persons carrying on any other trade to which the enactment or order relates, and this section shall apply only to the first-mentioned of those registers.

**3. Licences by Minister of Health to sell milk under special designations.**—(1) A person shall not, either by himself or by any servant or agent, except under and in accordance with a licence granted by the Minister of Health, or with his authority under the provisions of an order made by him under this Act—

(a) sell or offer or expose for sale any milk as "certified," "Grade A," "pasteurised" or under such other designation as may be from time to time prescribed by order of the Minister; or

(b) on or in connection with any sale or offer for sale or proposed sale of any milk or in any advertisement, circular, or notice relating to any milk, describe or refer to the same as "certified," "Grade A," "pasteurised" or by any other designation prescribed as aforesaid, or use any description or designation including or resembling any such description or designation.

(2) A licence may be granted for the purposes of this section for such period and subject to such terms and conditions (including conditions as to the payment of fees) as may be prescribed by an order made under this Act.

(3) This section shall come into operation on the first day of January, nineteen hundred and twenty-three, and until that date the provisions of the Milk (England and Wales) Order, 1921, and the Local Authorities (Milk) Order, 1921, relating to the sale of milk under special designations or to the matters connected therewith, shall continue in force, and shall have effect as if they were enacted in this Act.

**4. Prohibition of addition of colouring matter, &c.]**—(1) No person shall add any colouring matter or water or any dried or condensed milk or any fluid reconstituted therefrom or any skimmed milk or separated milk to milk intended for sale, and no person shall, either by himself or by any servant or agent, sell, or offer or expose for sale, any milk to which any such addition has been made.

(2) No person either by himself or any servant or agent shall sell, or offer or expose for sale, as milk any liquid in the making of which dried milk or condensed milk has been used.

(3) For the purposes of this section, except as regards the addition of skimmed or separated milk, milk includes skimmed milk and separated milk.

**5. Prohibition of sale of tuberculous milk.]**—(1) No person shall, by himself or by any servant or agent, sell or offer or expose for sale the milk of a cow suffering from tuberculosis of the udder, and he shall be guilty of an offence under this section if it is proved that he knew or could by the exercise of ordinary care have ascertained that the cow was suffering from that disease.

(2) If any person is guilty of an offence under this section, he shall be liable on summary conviction for a first offence to a fine not exceeding twenty pounds, and for a second or subsequent offence to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a period of six months, or to both such fine and imprisonment.

**6. Milk and dairy orders to be laid before Parliament.]**—All orders relating to milk and dairies made by the Minister of Health under this Act or under any other enactment shall be laid before each House of Parliament as soon as may be after they are made; and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty days on which that House has sat next after the order is laid before it praying that the order may be annulled, it shall thereupon be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order. If the session of Parliament ends before such twenty days as aforesaid have expired, the order shall be laid before each House of Parliament at the commencement of the next session as if it had not previously been laid.

Any order made under this Act may be varied or revoked by an order made in the same manner and subject to the same provisions as the original order.

**7. Orders to be made with concurrence of Minister of Agriculture and Fisheries.]**—Any order made after the commencement of this Act by the Minister of Health under section thirty-four of the Contagious Diseases (Animals) Act, 1878 [41 & 42 Vict., c. 74], as amended by the Contagious Diseases (Animals) Act, 1886 [49 & 50 Vict., c. 32], shall be made with the concurrence of the Minister of Agriculture and Fisheries.

**8. Regulations by Minister of Health.]**—(1) The Minister of Health shall make regulations under the Public Health (Regulations as to Food) Act,

1907 [7 Edw. 7, c. 32], for the prevention of danger arising to public health from the importation of milk intended for sale for human consumption or for use in the manufacture of products for human consumption.

(2) Subsection (1) of section one of the said Act shall have effect as though at the end thereof the following paragraph were added:—

(d) provide for the manner in which any tin or other receptacle containing dried, condensed, skimmed, or separated milk is to be labelled or marked, and prescribe the minimum percentages of milk fat and milk solids in dried or condensed milks.

**9. Penalties.]**—(1) If any person is guilty of a contravention of, or non-compliance with, the provisions of this Act or any of them, he shall, save as otherwise provided in this Act, be liable on summary conviction to a fine not exceeding, in the case of a first offence five pounds, and, in the case of a second or subsequent offence, fifty pounds, and, if the offence is a continuing offence, to a further fine not exceeding forty shillings for each day during which the offence continues.

(2) Where it appears to a local authority that an offence has been committed in respect of which proceedings might be taken under this Act against a purveyor of milk, the local authority shall, if reasonably satisfied that the offence of which complaint is made was due to an act or default of a servant or agent without the knowledge, consent, or connivance of his employer, take proceedings against the servant or agent without first proceeding against his employer.

(3) A person shall not be convicted of any offence under any enactment relating to the sale of milk in respect of a sample of milk taken after the milk has left his custody and control, if it is proved to the satisfaction of the court that the churn or other receptacle in which the milk was contained was effectively closed and sealed at the time when it left his custody and control, but was not so closed and sealed at the time when it reached the person by whom the sample was taken.

**10. Administration of Act.]**—(1) The local authority for the purpose of the enforcement of sections three and four of this Act shall be the same as the local authority concerned with the enforcement of the Sale of Food and Drugs Acts, 1875 to 1907 (including an authority empowered by section thirteen of the Sale of Food and Drugs Act, 1875 [38 & 39 Vict., c. 63], to give directions to the officers named therein to procure samples of food or drugs), and the local authority for the enforcement of section five of this Act shall be the sanitary authority:

Provided that, where a local authority have been authorised by the Minister to grant licences under section three of this Act, that local authority shall also be a local authority for the purpose of the enforcement of that section.

(2) The expenses incurred by a local authority authorised to grant licences under section three, or incurred by a local authority under sections two and five, of this Act, shall be defrayed, in the case of a county council out of the county fund as expenses for general county purposes, and in the case of a sanitary authority as part of their general expenses in the execution of the enactments relating to public health, and any other expenses incurred by a local authority under this Act shall be defrayed in the same manner as expenses for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907.

**11. Transfer of powers under Act to county council.]**—(1) If a local authority fail to fulfil any of their duties under this Act or under any order relating to milk and dairies made by the Minister of Health, the Minister may, after holding a local inquiry, make such order as he thinks necessary or proper for the purpose of compelling the authority to fulfil their duties, and any such order may be enforced by mandamus.

(2) If a county council resolve that a district council within the county have failed to exercise or perform any of their powers or duties under this Act or any enactments relating to milk and dairies, or any order or regulations made thereunder, and make complaint thereof to the Minister of Health, the Minister may after such inquiry as he deems necessary by order determine that all or any of the said powers or duties be transferred to the county council either for a definite period or until the Minister shall otherwise direct, and those powers and duties shall be transferred accordingly, and section sixty-three of the Local Government Act, 1894 [56 & 57 Vict., c. 73], shall apply as if the powers and duties had been transferred under that Act with such modifications and adaptations as appear necessary or expedient.

**12. Provisions as to breaches of contract.]**—Where the registration of a retailer is refused, or a retailer is removed from a register, under this Act, the retailer shall not be liable to any action for breach of a contract for the purchase of further supplies of milk from a producer, if he can prove that such refusal or removal was due to the quality of milk supplied by the producer.

**13. Certificate of analyst prima facie evidence.]**—At the hearing of the information in any proceedings under section four of this Act, the production of the certificate of an analyst acting under the Sale of Food and Drugs Act, 1875 to 1907, for the place in which the sample was taken, shall be sufficient evidence of the facts stated therein unless the defendant shall require that the analyst shall be called as a witness.

**14. Application to Scotland.]**—This Act shall apply to Scotland, with the following modifications:—

(a) The Scottish Board of Health (hereinafter in this section referred to as "the Board") shall be substituted for the Minister of Health.

(b) The following section shall be substituted for section one:—

"1.—(1) The Milk and Dairies (Scotland) Act, 1914 [4 & 5 Geo. 5, c. 46], shall come into operation on the appointed day being a day not before the first day of September, nineteen hundred and twenty-five, and the appointed day shall be such day as the Board may by order appoint, and different days may be appointed for different purposes and for different provisions of that Act (including the repeal of different enactments).

(2) The Milk and Dairies Acts Postponement Act, 1915 [5 & 6 Geo. 5, c. 59], so far as the same applies to Scotland, is hereby repealed."

(c) The expression "court of summary jurisdiction" means the sheriff, and the provisions of section two of this Act regarding appeals to quarter sessions shall not apply provided that any decision by a sheriff-substitute under the said section may be appealed to the sheriff if notice of appeal is given within seven days of such decision.

(d) Subsection (1) of section three of this Act shall have effect as if there were inserted after the term "certified," wherever the same occurs therein, the term "Grade A (tuberculin tested)." In subsection (3) of section three of this Act references to the Milk (Scotland) Order, 1921, the Local Authorities (Milk) (Scotland) Order, 1921, the Milk (Local Authorities) (Scotland) Order, 1920, and the Local Authorities (Milk) (Scotland) Order, 1920, shall be substituted for references to the Milk (England and Wales) Order, 1921, and the Local Authorities (Milk) Order, 1921.

(e) In subsection (2) of section nine of this Act references to the procurator-fiscal shall be substituted for references to the local authority.

(f) The following subsection shall be substituted for section ten of this Act:—

The provisions of this Act shall be enforced by the local authorities under the Public Health (Scotland) Act, 1897 [60 & 61 Vict., c. 38], and any expense thereby incurred shall be defrayed out of the public health general assessment.

(g) Section eleven of this Act shall not apply.

(h) Where a local authority have, in virtue of powers conferred on them by orders made by the Food Controller and Secretary for Scotland under the Defence of the Realm Regulations, bought and sold milk and made arrangements as to the distribution thereof in their district, such local authority may, if the Board are satisfied that in the special circumstances the continued exercise of such powers is desirable, buy milk from any person and sell milk so bought at a price estimated to cover at least the cost of purchasing and distributing such milk and make arrangements as to the distribution of milk in their district so, however, that nothing in this paragraph shall authorise the local authority to fix prices for milk in their district. The powers conferred hereby shall be subject to such conditions as may from time to time be prescribed by the Board and shall cease to be exercisable if and when the Board so determine by order. Any expenses incurred by a local authority in the execution of the powers conferred on them by this paragraph shall be defrayed out of the public health general assessment, but such expenses shall not be reckoned in any calculation as to the statutory limit of that assessment. For the purposes of this paragraph, the expression "milk" shall include skimmed milk, separated milk and buttermilk and any milk which has been submitted to sterilisation, pasteurisation, homogenisation, or any other like process, but shall not include condensed milk.

15. *Short title and extent.*—(1) This Act may be cited as the Milk and Dairies (Amendment) Act, 1922.

(2) This Act shall not apply to Ireland.

(3) This Act, except where otherwise expressly provided, shall come into operation on the first day of September, nineteen hundred and twenty-two.

## CHAPTER 55.

### CONSTABULARY (IRELAND) ACT, 1922.

An act to make provision for the disbandment of the Royal Irish Constabulary and with respect to magistrates appointed under the Acts relating to that Force, and for the validation of things done or omitted in the execution or purported execution of those Acts, and for other purposes incidental thereto. [4th August, 1922.]

## CHAPTER 56.

### CRIMINAL LAW AMENDMENT ACT, 1922.

An Act to amend the law with respect to offences against persons under the age of sixteen, and with respect to penalties under section thirteen of the Criminal Law Amendment Act, 1885, and to repeal section five of the Punishment of Incest Act, 1908. [4th August, 1922.]

Be it enacted, &c.:—

1. *Consent of young person to be no defence.*—It shall be no defence to a charge or indictment for an indecent assault on a child or young person under the age of sixteen to prove that he or she consented to the act of indecency.

2. *Amendment of ss. 5 and 6 of 48 & 49 Vict., c. 69, as to defence of reasonable belief.*—Reasonable cause to believe that a girl was of or above the age of sixteen years shall not be a defence to a charge under sections five or six of the Criminal Law Amendment Act, 1885 (in this Act referred to as the principal Act). The limit of time mentioned in the second proviso to section five of the principal Act, as amended by section twenty-seven of the Prevention of Cruelty to Children Act, 1904 [4 Edw. 7, c. 15], shall be nine months after the commission of the offence: Provided that in the case of a man of twenty-three years of age or under the presence of reasonable cause to believe that the girl was over the age of sixteen years shall be a valid defence on the first occasion on which he is charged with an offence under this section.

3. *Amendment of penalties under s. 13 of principal Act.*—Any person who is convicted of an offence against section thirteen of the principal Act (which relates to summary proceedings against brothel keepers, &c.) shall be liable on summary conviction—

(a) to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding three months; and

(b) on a second or subsequent conviction, to a fine not exceeding two hundred and fifty pounds or to imprisonment with or without hard labour for a term not exceeding six months; or, in any such case, to both fine and imprisonment.

4. *Application to Scotland.*—In the application of this Act to Scotland—

(1) The following provision shall be substituted for section one of this Act—

Any person who uses towards a girl of or above the age of twelve years and under the age of sixteen years any lewd, indecent or libidinous practice or behaviour which, if used towards a girl under the age of twelve years, would have constituted an offence at common law, shall, whether the girl consented to such practice or behaviour or not, be guilty of an offence against this Act, and shall be liable on conviction on indictment to imprisonment with or without hard labour for a period not exceeding two years, or on summary conviction to imprisonment for a period not exceeding three months.

(2) The section of this Act relating to amendment of penalties under section thirteen of the principal Act shall not apply, except to convictions in the sheriff court; and on conviction of any person by any other court of summary jurisdiction of an offence against the said section thirteen, such person shall be liable to a penalty not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding three months, or to both such fine and imprisonment.

5. *Repeal of s. 5 of 8 Edw. 7 c. 45.*—Section five of the Punishment of Incest Act, 1908 (which requires that all proceedings under that Act are to be held in camera), is hereby repealed.

6. *Short title and repeal.*—(1) This Act may be cited as the Criminal Law Amendment Act, 1922; and the Criminal Law Amendment Acts, 1885 to 1912, and this Act may be cited together as the Criminal Law Amendment Acts, 1885 to 1922.

(2) The enactments specified in the first and second columns of the Schedule to this Act shall be repealed to the extent shown in the third column of that schedule.

(3) This Act shall not apply to Ireland.

## SCHEDULE.

### [Section 6.]

Session and Chapter.	Short Title.	Extent of Repeal.
43 & 44 Vict., c. 45	The Criminal Law Amendment Act, 1880.	The whole Act.
48 & 49 Vict., c. 69	The Criminal Law Amendment Act, 1885.	The first proviso to section 5; the proviso to section 6; section 13 so far as it relates to penalties.
8 Edw. 7, c. 45	The Punishment of Incest Act, 1908.	Section 5.
2 & 3 Geo. 5, c. 20	The Criminal Law Amendment Act, 1912.	Subsections (2) and (3) of section 4.

## CHAPTER 57.

### SOLICITORS ACT, 1922.

An Act to make further provision with respect to the qualifications of persons proposing to become or to practise as Solicitors.

[4th August, 1922.]

Be it enacted, &c.:—

1. *Conditions of exemption from preliminary examination.*—(1) A certificate of having passed a preliminary examination under the Solicitors

Act, 1877 [40 & 41 Vict., c. 25], shall not be required from any person who has—

(a) taken a degree, other than an honorary degree, in arts or law at any university to which this Act applies; or

(b) passed the examination in responsions at Oxford, or the previous examination at Cambridge, or the matriculation or other corresponding examination at any other university to which this Act applies, or any examination accepted by any such university as exempting from those examinations; or

(c) been called to the degree of utter barrister in England.

(2) The Board of Education, after consultation with the Law Society and with the concurrence of the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls, or any two of them, may by order make regulations adding to the examinations, the passing of which exempts from the preliminary examination, and prescribing, if it appears necessary, the conditions and standards to be complied with in connection with any examination which may be so added, and on the making of any such order this section shall have effect accordingly.

(3) Any disputed question as to whether an examination is for the purposes of this section an examination corresponding to the matriculation examination shall be decided by the Board of Education.

(4) As respects universities and examinations in Scotland, the powers conferred by this section on the Board of Education shall be exercisable by the Scottish Education Department.

(5) The Solicitors Act, 1877, shall have effect as though the foregoing provisions of this section were substituted for section ten thereof, but a certificate of having passed a preliminary examination shall not be required from any person who before or within five years after the passing of this Act has taken any of the degrees or passed any of the examinations referred to in that section (as amended by any other enactment) or in any regulations made under that section.

**2. Conditions of admittance to final examination.**—(1) A person article to a solicitor after the thirty-first day of December, one thousand nine hundred and twenty-two, shall not be admitted to the final examination, unless he satisfies the Law Society that he has during a period of one year, such period being continuous or subject to such intervals as the Society may think reasonable, complied with the requirements of the Society as to attendance at a course of legal education at a law school provided or approved by the Society:

Provided that—

(a) the Society shall exempt any person wholly or partially from the provisions of this section if satisfied that the attendance at any such course of education as aforesaid was for geographical or other reasons impracticable; and

(b) any person may appeal to the Master of the Rolls in accordance with rules made by the Master of the Rolls against the refusal of the Society to approve any law school for the purposes of this section, or to exempt any person from the provisions of this section, and the decision of the Master of the Rolls shall be final and binding on the Society.

(2) The Society shall supply a list of law schools provided or approved by them for the time being to—

(a) any person applying for the same; and

(b) any person article to a solicitor as soon as may be after his articles are registered.

(3) The provisions of this section shall not apply to any person who proves to the satisfaction of the Law Society, or, on appeal, to the satisfaction of the Master of the Rolls that he has taken a degree at any of the universities to which this Act applies after passing a final examination in law at that university, or to any person who applies to be admitted to the Law Society's final examination after satisfying the requirements contained in section four of the Solicitors Act, 1860 [23 & 24 Vict., c. 127].

(4) Notwithstanding anything contained in this Act, the Law Society shall continue to conduct their examinations previous to the admission of solicitors independently of any school of law, and the teaching staff of any law school provided by the Society shall not take any part in any such examinations.

**3. Power of judges to provide for admission in certain cases after four years' service.**—(1) The Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice or one of them, may make regulations directing that any person having passed any examination held in or by any university to which this Act applies, or in or by any college or educational institution specified in the regulations, and having passed the intermediate and final examinations under the Solicitors Act, 1877, may be admitted and enrolled as a solicitor after service under articles of clerkship to a practising solicitor for the term of four years, but not so as to allow in any case a less term of service than four years.

(2) The Solicitors Act, 1877, shall have effect as though the foregoing provisions of this section were substituted for section thirteen thereof.

**4. Amendment of s. 2 of 23 & 24 Vict., c. 127.**—Section two of the Solicitors Act, 1860 (which enables persons who have taken degrees at certain universities to be admitted after three years' service) shall have effect as though—

(a) any reference to a degree of Bachelor of Arts included a reference to a degree of Bachelor of Science; and

(b) the universities to which this Act applies were substituted for the universities referred to in that section.

**5. Time for taking final examination.**—A person, whether bound under articles of clerkship for five, four, or three years, who has duly served his clerkship in accordance with the provisions of the Solicitors Act, 1839 to 1919, and this Act, and has duly complied with the provisions of this Act, shall be at liberty to present himself for final examination and be examined at the examination next preceding the expiration of his term of service under articles of clerkship, or at any subsequent examination.

**6. Application of 51 & 52 Vict., c. 65, s. 16, to solicitors applying for a first certificate to practise.**—Section sixteen of the Solicitors Act, 1888 (which authorises the registrar of solicitors to refuse to issue certificates in certain cases) shall apply to a solicitor who, being an undischarged bankrupt, applies for a first certificate to practise.

**7. Power to make rules for the purposes of the Solicitors Act, 1888.**—The Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice, or one of them, may make general regulations for the purposes of the execution of the Solicitors Act, 1888 (as amended by any subsequent enactment, including this Act) with respect to articles of clerkship, admission as a solicitor, or the grant or renewal of a certificate to practise.

**8. Fee for registrar's certificate.**—The fee payable under section twenty of the Solicitors Act, 1860 [23 & 24 Vict., c. 127], in respect of the issue of the registrar's certificate shall be one pound instead of five shillings, and that section shall have effect accordingly, and the proceeds of any increase in the fee under this section shall be applied by the Law Society in such manner as they think fit towards the expenses of the Society's school in London, and making grants to approved law schools elsewhere.

**9. Universities to which the Act applies.**—This Act applies to any university which, at the time of the passing of this Act, is entitled to representation in the House of Commons, whether alone or jointly with any other university:

Provided that the Board of Education, after consultation with the Law Society and with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls, or any two of them, may by order add any university in the United Kingdom to the universities to which this Act applies, and, on the making of any such order, this Act shall have effect accordingly.

**10. Short title, repeal and saving.**—(1) This Act may be cited as the Solicitors Act, 1922, and the Solicitors Acts, 1839 to 1919, and this Act may be cited together as the Solicitors Acts, 1839 to 1922.

(2) The enactments referred to in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

#### SCHEDULE.

[Section 10.]

Session and Chapter.	Short Title.	Extent of Repeal.
6 & 7 Vict., c. 73.	The Solicitors Act, 1843.	In section three the words "and also unless such person shall after the expiration of the said term of five years have been examined in the manner herein after directed."
23 & 24 Vict., c. 127.	The Solicitors Act, 1860.	Sections five and twelve.
40 & 41 Vict., c. 25.	The Solicitors Act, 1877.	Sections ten and thirteen.
8 Edw. 7, c. 38	The Irish Universities Act, 1908.	Section twelve so far as it amends section ten of the Solicitors Act, 1877.

#### CHAPTER 58.

**ECCLESIASTICAL TITHE RENTCHARGES (RATES) ACT, 1922.**

An Act to amend the Ecclesiastical Tithe Rentcharge (Rates) Act, 1920, in respect of the relief or abatement to an owner of tithe rentcharge who holds more than one benefice.

[4th August, 1922.]

Be it enacted, &c. :—

**1. Relief or abatement in case of several benefices held by one person.**—Where the owner of tithe rentcharge attached to a benefice holds more than one benefice (whether united for ecclesiastical purposes or not so united) he shall, in respect of any rate made on or after the first day of October, nineteen hundred and twenty-two, be entitled under subsection (2) of section one of the Ecclesiastical Tithe Rentcharge (Rates) Act, 1920 [10 & 11 Geo. 5, c. 22], to such relief or abatement only as he would have been entitled to if the several benefices were one benefice and any tithe rentcharge attached to any of the several benefices were attached to that one benefice and the total income arising from the several benefices arose from one benefice.

**2. Short title.**—This Act may be cited as the Ecclesiastical Tithe Rentcharges (Rates) Act, 1922, and the Ecclesiastical Tithe Rentcharge (Rates) Act, 1920, and this Act, may be cited together as the Ecclesiastical Tithe Rentcharges (Rates) Acts, 1920 and 1922.

**CHAPTER 59.**

**LOCAL GOVERNMENT AND OTHER OFFICERS' SUPERANNUATION ACT, 1922.**

An Act to provide for the Superannuation of Persons employed by Local Authorities and other Public Bodies. [4th August, 1922.]

**CHAPTER 60.**

**LUNACY ACT, 1922.**

An Act to amend the law relating to Chancery Lunatics.

[4th August, 1922.]

Be it enacted, &c. :-

**1. Substitution of Master and Assistant Master for two Masters in Lunacy.**—(1) Instead of two Masters in Lunacy there shall be a single Master in Lunacy who shall be assisted by one of his officers and that officer shall be termed the Assistant Master in Lunacy.

(2) The Assistant Master in Lunacy shall, subject to rules in lunacy and the directions of the Master, be capable of exercising the jurisdiction of the Master as regards administration and management.

(3) No person shall be qualified to be appointed assistant master unless he is at the time of his appointment either an officer of the Master or a barrister or solicitor of not less than five years' standing. The appointment of the assistant master shall be made by the Lord Chancellor.

**2. Amendments as to procedure.**—(1) Any jurisdiction which may be exercised by the Judge or Master in the case of a lunatic not so found by inquisition may be exercised by the Judge or Master in the case of a lunatic so found.

(2) Sections one hundred and thirty-three to one hundred and forty-three (inclusive) of the Lunacy Act, 1890 [52 & 53 Vict., c. 5] (as amended by any subsequent enactment), shall apply and extend to trustees and mortgagees who are criminal lunatics.

(3) The power of the High Court to make orders under sections one hundred and thirty-five to one hundred and forty-three (inclusive) of the said Act (as amended by any subsequent enactment) in relation to lunatics who are mortgagees shall extend to cases where—

(a) the lunatic is a trustee of part only of the mortgage money, and notwithstanding that he is beneficially interested in any part thereof; and

(b) the lunatic has become a trustee of the mortgaged property merely by reason of the mortgage money having been paid off; and in those cases the Judge in Lunacy shall have no jurisdiction.

(4) Proceedings in the High Court under those sections one hundred and thirty-five to one hundred and forty-three (as amended) shall be entitled in the matter of the Trustee Act, 1893 [56 & 57 Vict., c. 53].

(5) Where money has been lent or advanced on mortgage by two or more persons jointly, and one such person is a lunatic, the lunatic mortgagee, for the purposes of section one of the Lunacy Act, 1911 [1 & 2 Geo. 5, c. 40], shall not be deemed to be a mortgagee who is also a trustee.

(6) Where there are proceeds of sale of copyhold or customary lands standing in court to the credit of the estate of a lunatic, the proceeds may on the death of the lunatic, be paid out to his legal personal representative, without the necessity of obtaining the consent of the customary heir or any other person; but nothing in this provision shall prejudice any beneficial interest of any person in such proceeds.

(7) The indemnity conferred by section three hundred and thirty-three of the Lunacy Act, 1890, on the Bank of England and other persons for acts and things done or permitted to be done pursuant to that Act or an order purporting to be made thereunder shall extend to acts and things done or permitted to be done pursuant to any certificate, direction or authority made or given by the Judge or the Master under that Act.

(8) Amongst the powers which by virtue of section twenty-seven of the Lunacy Act, 1891 [54 & 55 Vict., c. 65], may be exercised by the Master there shall be included the power of making orders for the purpose of preserving so far as possible in the administration of the property of the lunatic the quality, tenure and devolution of the property.

**3. Short title and construction.**—(1) This Act may be cited as the Lunacy Act, 1922, and shall be construed as one with the Lunacy Acts, 1890 to 1911, and those Acts and this Act may be cited together as the Lunacy Acts, 1890 to 1922.

(2) This Act shall not apply to Scotland or Ireland.

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# DIGEST OF CASES REPORTED IN THE SOLICITORS' JOURNAL & WEEKLY REPORTER. VOLUME 66.

**ADULTERATION:—**

*Milk—Deficiency of fat—Sale of Food and Drugs Act, 1875 (38 & 39 Vict., c. 63), s. 6—Sale of Food and Drugs Act, 1879 (42 & 43 Vict., c. 30), s. 3.*—The sale of milk, containing a percentage of fat less than that contracted for, is not an offence within s. 6 of the Sale of Food and Drugs Act, 1875, if the milk sold is not adulterated by the addition of anything to it or the abstraction of anything from it, but is in the same condition as that in which it was given by the cow.

*Hunt v. Richardson* (1916, 2 K.B. 446), and *Williams v. Rees* (87 L.J.K.B. 639), followed.—*Few v. Robinson, K.B.D.*, 15 (1921, 3 K.B. 504).

**AGRICULTURAL HOLDING:—**

1. *Allotments—Compulsory hiring—Breaking up of pasture land—Condition—Satisfaction of Ministry of Agriculture and Fisheries—Small Holdings and Allotments Act, 1908 (8 Edw. 7, c. 36), s. 39, Sched. I, pt. 2, clause 2 (b)—Land Settlement (Facilities) Act, 1919 (9 & 10 Geo. 5, c. 59), s. 25 (1), Sched. II.*—A local authority has power under the Small Holdings and Allotments Act, 1908, as amended by the Land Settlement (Facilities) Act, 1919, to make an order compulsorily hiring land for the purpose of small holdings or allotments, subject to the condition that the order is not to authorize the breaking up of pasture unless small holdings, or allotments, as the case may be, cannot otherwise be successfully cultivated.

Held, that "cultivated" means cultivated on the plot of land to be hired by the order, and that the Ministry of Agriculture need not be satisfied that there is no other land in the neighbourhood capable of being so cultivated without breaking up pasture.—*Knowles v. Salford Corp., C.A.*, 332; 1922, 1 Ch. 328.

2. *Landlord gives notice to quit—Offer to allow tenant to remain at increased rent—Whether withdrawal of notice to quit—Compensation for disturbance—Agriculture Act, 1920 (10 & 11 Geo. 5, c. 76), s. 10 (1), proviso.*—Section 10 (1) of the Agriculture Act, 1920, enacts that a tenant who has received a notice to quit may in certain cases claim compensation for the disturbance, and the sub-section contains a proviso that the compensation shall not be payable "in any case where the landlord has made to the tenant an offer in writing to withdraw the notice to quit and the tenant has unreasonably refused or failed to accept the offer." An offer to allow the tenant to remain in the tenancy at a substantially increased rent is not the withdrawal of a previously given notice to quit within the meaning of the proviso.—*Perrett v. Bennett-Stanford, C.A.*, 680.

3. *Sale of land—Sale of farm—Sale of part of a holding—Notice to quit—Validity—Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919 (9 & 10 Geo. 5, c. 63), s. 1—Agricultural Act, 1920 (10 & 11 Geo. 5, c. 76), first sched.*—By s. 1 of the Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919, it is provided that "on the making . . . of any contract for the sale of a holding, or any part of a holding held by a tenant from year to year, any then current and unexpired notice to determine the tenancy of the holding given to the tenant, either before or after the passing of the Act, shall be null and void, unless the tenant shall, after the passing of the Act and prior to such contract of sale by writing, agree that such notice shall be valid."

Held, that the above section applies to a sale to a sitting tenant of part of his holding. Where, therefore, a tenant of an agricultural holding having, prior to the passing of the Act, received a notice to quit his holding, and, afterwards, before the expiry of that notice to quit, bought a part of his holding, the Court of Appeal (reversing Rowlatt, J.) held that by virtue of the section, the notice to quit was invalidated by reason of that sale to the tenant of a part of his holding.—*Blay v. Dadsell, C.A.* 439; 1922, 1 K.B. 632.

**ALIEN:—**

1. *Nationality—British Subject also German Subject by German Law—Whether "German National" under Treaty of Peace Order, 1919—Charge on Property of German Nationals—Dual Nationality—Treaty of Peace Order, 1919, s. 1 (xvi).*—A person who is a British subject by British law, and also a German subject by German law, is a "German national" within the meaning of the Treaty of Peace with Germany, and the Treaty of Peace Order, 1919, giving effect to it, and his property in England, is, therefore, liable to the charge created by that Order (per Lord Sterndale, M.R., and Warrington, L.J., but Younger, L.J., dissenting).

Appeal from a decision of Astbury, J., who had followed the decision of Lawrence, J., in *Chamberlain v. Chamberlain* (86 Sol. J., 6 (3); 1921, 2 Ch. 533).—*Kramer v. Attorney-General, C.A.*, 708.

2. *Nationality—British Woman married to Alien in Time of War—Loss of British Nationality—Charge on Property in England under Treaty of Peace Order, 1919, s. 1 (xvi)—British Nationality and Status of Aliens Act, 1914 (4 & 5 Geo. 5, c. 17), s. 10.*—The Treaty of Peace with Germany was signed on 28th June, 1919, but did not come into force until 10th January 1920. In October, 1919, M, a natural-born British woman, obtained a passport to go to Germany, and there, on 3rd November, 1919, married F, to whom she had been betrothed before the war. The Public Trustee, as custodian of enemy property, took certain shares held by her in an English company, and claimed that, by s. 10 of the British Nationality and Status of Aliens Act, 1914, she, as wife of an alien, was herself an alien, that she was therefore a German national, and the shares were subject to the charge on the property of German nationals created by the Treaty of Peace Order, 1919. M contended that such a marriage could not be contracted with an enemy in war time so as to be valid and deprive her of her English nationality.

Held, that even if M had not lost her English domicile by going to Germany with intention to remain there and to marry a German, there was nothing in English law to render such a marriage with an enemy, albeit in time of war, invalid. M was therefore a German national, and the charge attached to her property.—*Fabender v. Attorney-General, C.A.*, 709.

See also *War, Will*.

**ANNUITY.—See Will.****APPEAL:—**

1. *"Overruled"—Inclosure Act—Reservation of Manoria Rights—Right to Support of Surface—Subsidence—Practice—Authority—Decision doubled but not Expressly Overruled—Binding Authority where Facts exactly Similar.*—A decision of the Court of Appeal is not overruled because judgments of the House of Lords have shown it to be based upon wrong reasoning; particularly when the higher court has been asked to overrule the decision and has not expressly done so. The distinctive criticism of the House of Lords may cause it to be an authority of no general value, but it still remains binding upon Courts of equal or inferior jurisdiction in cases where the circumstances and the questions of fact or law are precisely similar.

Decision of Peterson, J. (65 Sol. J., 533), reversed.—*Consett Industrial Society v. Consett Iron Co., C.A.*, 452.

2. *Practice—Appeal from Report of Master—Jurisdiction—R. S. C. Order, LIV, r. 22 (a).*—An appeal to the Divisional Court under Order LIV, r. 22 (a) from a report made by a master, in an action commenced in the High Court upon an issue which the judge directed him to try, is an appeal in the fullest sense of the word, both the law and the facts being open to review.—*Scott v. Walley, K.B.D.*, 539.

3. *Practice—Shipping Contract—Decision Reversed in House of Lords—Damages Entered for Plaintiffs—Antedating Judgment—Jurisdiction.*—The plaintiffs sued the defendants to recover damages for an alleged breach of a shipping contract. Bailhache, J., dismissed the action, but in case the plaintiffs succeeded on appeal to get his decision set aside, he assessed the damages at £50,000. The Court of Appeal, by a majority, affirmed his judgment. Upon Appeal to the House of Lords, the judgments below were reversed, and it was ordered that judgment should be entered for the plaintiffs for £50,000 and that the cause should be remitted to the King's Bench Division "to do therein as should be just and consistent with the judgment." The plaintiffs subsequently applied to the Divisional Court for liberty to sign judgment as from the date when Bailhache, J., gave judgment against them, with interest from that date (the 2nd April, 1919) and the Divisional Court made an order in the usual form, registering the judgment of the House of Lords and referring all questions (if any) arising in the judgment to Bailhache, J. On the 22nd July last, Bailhache, J., made an order directing that the judgment should be ante-dated the 2nd April. The defendants appealed.

Held, that the appeal must be allowed on the ground that there was no jurisdiction to make the order appealed from, and that judgment must therefore be entered as upon the date when the House of Lords gave judgment.—*NITRATE PRODUCE STEAMSHIP CO. v. SHORTT BROTHERS, C.A.*, 5.

4. *Special leave—Copyright—Infringement—Original literary work—Extracts from non-copyright work.*—Special leave to appeal from the Court of Appeal in Bombay was given in a case which the Court of Appeal had decided that it was not an infringement of copyright to publish extracts from a work which was not copyright.—*MACMILLAN & CO. v. COOPER, P.C.*, 594.

See also County Court.

#### APPOINTMENT:—

1. *Power of appointment—Exercise—Invalidity—Fraud on power.*—An exercise of a power of appointment will be invalidated as a fraud on the power if it is made in circumstances which amount to a fraud on the power, although no pecuniary advantage results from it, but only an advantage of another character, namely, freedom to re-marry.—*COCHRANE v. COCHRANE, Sargant, J.*, 522.

2. *Power of appointment—Testamentary covenant to appoint in a particular way and not to revoke will—Will exercising power accordingly—Subsequent will revoking—Effect.*—The donee of a special power of appointment by will cannot validly covenant to appoint in a particular way, because by so doing the power is robbed of its fiduciary character and the donee's discretion fettered.

In *re Bradshaw* (1902, 1 Ch. 436) applied.

In *re Evered* (1910, 2 Ch. 147) distinguished.—*Re COOKE, Russell, J.*, 351; 1922, 1 Ch. 292.

See also Will.

3. *Will—Construction—Annuity and residuary legatees—Arrears of annuity—Annuity deceased—Interim dividend—Apportionment Act, 1870 (33 & 34 Vict., c. 35), ss. 2 and 5.*—In order to bring a payment made by a company to its shareholders out of revenue within the Apportionment Act, 1870, so as to render it apportionable, although it is not necessary that the payment should be periodical, it is essential that it should be declared in respect of a definite period.

In *re Griffiths* (12 Ch. D. 655) distinguished.—*Re JOWITT, Lawrence, J.*, 577.

#### ARBITRATION:—

*Landlord and tenant—Arbitration under Agricultural Holdings Act—Appeal against award—Whether to County Court or High Court—Inherent jurisdiction of High Court not specially ousted by statute—Agricultural Holdings Act, 1908 (8 Edw. 7, c. 28), s. 13 (3), (4), Sch. 2, clauses 1 to 15.*—The provisions of s. 13 and clauses 6, 9, 13 and 14 of Schedule 2 of the Agricultural Holdings Act, 1908, imply that arbitration under the Act are subject to appeal to the County Court. Nevertheless, as the Act does not specially preclude the inherent jurisdiction of the High Court that jurisdiction still remains.

Decision of *Eve, J.*, reversed.—*Re JONES AND CARTER, C.A.*, 611.

#### BAILMENT:—

*Motor-car—Bailment for reward—Deposit for sale on commission—Conditions—"Customers' sole risk"—Negligence of bailee's servant—Liability of bailee—Effect of exemption clause.*—The respondent, who owned a motor-car which he was desirous of selling, placed the same with the appellant, a motor-car

dealer and garage proprietor, to be sold by the appellant on commission for the respondent. The agreement under which the motor-car was deposited with the appellant contained, among other conditions, the following clause: "Customers' cars are driven by your staff at customers' sole risk." While the motor-car was in the appellant's custody under the agreement, it was damaged owing to the negligence of a skilled driver employed by the appellant. The accident causing the damage occurred while the motor-car was being driven to show it to a potential purchaser.

Held, that the above clause protected the appellant from any liability for the negligence of his servant, the driver.—*BITTER v. PALMER, C.A.*, 576; 1922, 2 K.B. 87.

BANK.—See Mistake.

#### BANKRUPTCY:—

1. *Debtor's trade secrets—Formulae for manufacturing patented articles—Order to disclose—Knowledge in mind of debtor but not written—Property—Bankruptcy Act, 1914 (4 & 5 Geo. V., c. 59), s. 38.*—A debtor may be ordered to disclose to his trustee in bankruptcy formulae for manufacturing patented articles, in order that the latter may sell the same for the benefit of the creditors. Even if these formulae are not written down, but are in the knowledge of the debtor, he may still be ordered to disclose them, for, if used regularly in the manufacture, they are not part of the debtor's personal skill and knowledge, but part of the goodwill of his business, and so property available for creditors within the meaning of the Bankruptcy Act, 1914, s. 38.—*Re KEENE, C.A.*, 503.

2. *Notice issued and served—Debtor's petition for sequestration in Scotland during currency of notice—Award of sequestration—Receiving order made in England—Bankruptcy (Scotland) Act 1913 (3 & 4 Geo. 5, c. 20), ss. 5, 11, 13—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), ss. 1, 7.*—A debtor cannot avoid the operation of a bankruptcy notice served upon him in England by himself, during the currency of the notice, petitioning for and obtaining an award of sequestration of his estate under the Bankruptcy (Scotland) Act, 1913. A receiving order made in pursuance of the bankruptcy notice in England will, therefore, be valid, and cannot be set aside on the ground of the sequestration.—*Re A DEBTOR* (199 of 1922), *C.A.*, 521.

3. *Practice—Petition by creditor—Receiving order—Omission of security from petition—Whether petition can be amended after receiving order.*—Where a creditor's petition has omitted to mention a security, but that security is of no importance and the omission was made inadvertently, the petition may be amended so as to include the security even after a receiving order has been made upon the petition.—*Re A DEBTOR* (No. 1507 of 1921), *C.A.*, 472; 1922, 2 K.B. 109.

4. *Purchase of shares by stockbroker—Bankruptcy of broker—Transfer of shares—Property held by bankrupt on trust—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), s. 38.*—A instructed his broker to purchase on his behalf 200 shares in a company. The broker instructed a firm of brokers to effect the purchase. The firm duly purchased the shares and sent a transfer of the shares to the broker, prepared in the name of A. The broker had in the meantime filed his petition in bankruptcy and the transfer passed to the Official Receiver and from him to the trustee in bankruptcy of the broker. It was claimed by the firm and also by A.

Held, that it was "property held by the bankrupt on trust" within the exception contained in s. 38 of the Bankruptcy Act, 1914, and that it must be handed over to A.—*BARBER & SONS v. RIGLEY, K.B.D.*, 577.

#### BASTARDY:—

*Subsequent marriage—Separation order—"Single woman"—Affiliation order—Matrimonial Causes Act, 1857, s. 26.*—A woman who was the mother of an illegitimate child, towards the maintenance of which child the father had contributed within twelve months of its birth, married a man other than the father of the child. During the cohabitation the husband supported the child. Subsequently the wife obtained a separation order on the ground of her husband's cruelty, and she then obtained an affiliation order against the father.

Held, that by reason of the separation order she had the status of *feme sole* and that consequently she was a "single woman" for the purpose of applying for the affiliation order.—*BOYCE v. COX, K.B.D.*, 142; 1922, 1 K.B. 149.

#### BILL OF EXCHANGE:—

*Cheque—Suspension of bank—Money received after stoppage—Agent or holder for value—Winding-up—Bills of Exchange Act, 1822, s. 82—Bills of Exchange (Crossed Cheques) Act, 1906.*—The payee of a cheque paid it into his account at his bank and three days later the bank stopped payment.

Subsequently the bank received the money for the cheque and on the same day presented their petition for winding up. The payee claimed to be entitled to be paid the full amount of the cheque and not merely a dividend.

Held, that the money was never collected by the bank at a time when they could convert it into their own money and therefore the payee was entitled to be paid the amount in full.  
*Re FARROW'S BANK, Astbury, J., 681.*

#### BILL OF SALE:—

1. *Agreement to execute—Registration—Chattels—Equitable Title—Bills of Sale Act, 1878 (41 & 42 Vict. c. 31), s. 4—Bills of Sale Act, 1878, Amendment Act, 1882 (45 & 46 Vict., c. 43), ss. 4 & 8.*—An agreement to assign chattels upon the happening of a particular contingency gives an equitable title to the chattels and is a bill of sale.

*Edwards v. Edwards* (1876, 2 Ch. D. 291) applied; *SHEARS v. JONES, Russell, J., 682.*

2. *Assignment of chattel or proceeds of sale when sold—Document not severable—Validity.*—A customer, as security for an overdraft at bank, gave authority in writing to a motor engineer (on the written instructions of the bank manager), to hold his car "at present in your hands to the order of the 'bank' or the proceeds when sold after deducting your account." An action having been brought by the bank to enforce their rights as assignees,

Held, that the proceeds of sale were only assigned with and representing the chattel, that the legal incidents attached to the assignment of the proceeds of sale must be held to arise out of and to be inseparable from those governing the assignment of the chattel; that the document in question was a bill of sale and that, as it had not been drawn up in pursuance of the form required by the statute, the plaintiffs could not succeed.  
—*NATIONAL PROVINCIAL UNION BANK v. LINDELL, K.B.D. 11; 1922, 1 K.B. 21.*

See also *Company, Industrial Society, Interpleader.*

#### CARRIER:—

*Passenger's luggage—Railway company and Pullman Car Company—Loss in Pullman Car—Negligence—Liability.*—A passenger from Paris to London took a ticket on board the steamer entitling her to a seat in a Pullman Car on the train from Dover to London. Attention was drawn on the ticket to a condition printed thereon, to the effect that the Pullman Car Company (which was distinct from the railway company) would not be responsible for articles which passengers might have with them in the Pullman Car. The passenger, against her will, allowed a suit case, which she wished to retain, to be placed in a vestibule of the Pullman Car at Dover. On arrival at Victoria Station it was missing.

Held, that she was entitled to recover damages from the railway company, but that the Pullman Car Company were not liable in respect of the loss.—*EHINGER v. SOUTH EASTERN & CHATHAM RAILWAY, K.B.D., 633.*

#### CHARITY:—

1. *Charitable gift—"Oldest respectable inhabitants"—Small amount—Combination of age and poverty—Good charitable bequest.*—A gift to "the oldest respectable inhabitants of Gunville to the amount of five shillings a week each" is a good charitable bequest, because of the ingredient of poverty which the maximum amount payable to each old inhabitant introduces.—*Re LUCAS, Russell, J., 368; 1922, 2 Ch. 52.*

2. *Charitable trust—Legal title—Money deposited in joint names at bank—Inference of trust for charity—Summons or writ.*—Where certain moneys were deposited in joint names at a bank, and it was desired to know to whom the moneys belonged and an originating summons was taken out in the matter of the trusts of the moneys, it was held that *prima facie* there were no trusts, and that the legal title of the survivor of the joint depositors could only be displaced by an action being commenced by writ.

The names, titles and conduct of persons in whose joint names moneys are deposited at a bank, coupled with the date when the deposit was made and the surrounding circumstances, may establish an irresistible inference that the joint depositors were not beneficially entitled to the funds deposited.—*PEASE v. HOW, Lawrence, J., 250.*

3. *Charity Commissioners—Jurisdiction—Mixed charity—Exemptions from jurisdiction—Power to convey land without restriction—Endowments—Charitable Trusts Act, 1853 (16 and 17 Vict. c. 137), ss. 62, 66—Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124), ss. 29, 48.*—Land within the compulsory registration area was conveyed to the trustees of a deed which established a trust for charitable purposes. At the date of the conveyance there were no subscriptions to the

charity, and the only apparent income arose from the endowments contemplated by the deed, but subsequently and before application to the Land Registry for registration, voluntary contributions were received for the purpose of the charity.

Held, reversing the decision of Peterson, J., that registration could only take place with the consent of the Charity Commissioners, and subject to a restriction upon future dealings with the property without the like consent; for although s. 62 of the Charitable Trusts Act, 1853, exempted charities maintained partly by subscriptions and partly by income from endowments (known as "mixed charities") from the jurisdiction of the Commissioners, yet the time to determine the nature of the charity was the time when the conveyance was made to it, and the charity in this case did not become a mixed charity until after that date.—*VILLIERS v. ATTORNEY-GENERAL, C.A., 266; 1922, 1 Ch. 394.*

See also *Will.*

**CHEQUE.**—See *Bill of Exchange, Gaming.*

#### CLUB:—

*Debentures issued by Committee—Whether charged on Assets of the Club—Liability of the Committee—Subrogation.*—A member of a club advanced to the club a sum of £10,000 for which the committee issued debentures which were to be paid off as the committee might determine after three months' notice. The executors of the member claimed a declaration that they were entitled to a first charge on the assets of the club as security for repayment of the sum advanced.

Held, that there was nothing in the contract that could operate as a charge upon the property of the club and that the committee were not personally liable.—*WYLIE v. CARLYON, Eve, J., 6; 1922, 1 Ch. 51.*

#### COMPANY:—

1. *Contract—Directors—Offer to sell Shares to Directors—Death of some Directors before Acceptance—Whether Directors entitled Personally—Lapse of Offer.*—An offer was made by the respondent to sell certain shares in a company to the directors thereof. Three of the six original directors died and the three surviving directors then purported to accept the offer.

Held, that the offer was made not to the directors personally but to the board of directors for the time being, and therefore the surviving directors could not accept the offer.—*ATHERTON v. REYNOLDS, H.L., 404.*

2. *Pledge of Goods—Delivery of Documents of Title—Authority to Pledgor to Sell—Bill of Sale—Mortgage—Registration—Bills of Sale Act, 1878 (41 & 42 Vict., c. 31), s. 4—Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69), s. 93.*—A company pledged goods to a bank by delivery of a bill of lading, and, for the purpose of realisation, the company undertook to sell the goods and to hold the proceeds on behalf of the bank. The company having gone into liquidation, the liquidator claimed the goods on the ground that the undertaking was not registered and was therefore void.

Held, that the document did not require registration and that the bank was entitled to priority.—*Re DAVID ALLESTER, Astbury, J., 486.*

3. *Scheme of arrangement—Sanction of court—Sale to foreign company—Voluntary liquidator—Dissentient shareholders—Jurisdiction—Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69), ss. 120, 192.*—A scheme of arrangement provided that the company should go into voluntary liquidation and transfer its undertaking and assets to a new French company, with similar objects to be formed in accordance with French laws, and provision was made for dissentient shareholders.

Held, that the scheme was an arrangement which could be sanctioned by the court under s. 120 of the Companies (Consolidation) Act, 1908.—*Re Sandwell Park Colliery Co. (1914, 1 Ch. 589; 58 Sol. J. 432) followed.*

*Re ANGLO-CONTINENTAL SUPPLY CO., Astbury, J., 710.*

4. *Trading with the enemy—Shares—Vesting order—Condition as to payment of dividends—Trading with the Enemy Amendment Act, 1914, s. 2.*—Where the custodian of enemy property has in pursuance of a vesting order been registered as the owner of shares held by enemy shareholders, a condition that dividends due to enemy shareholders should be paid out of assets in an enemy country is not binding on the custodian with respect to dividends directed to be paid after the date of the vesting order and the company is liable to pay to him all dividends declared on such shares.

*ARAMAYO FRANCKE MINES v. PUBLIC TRUSTEE, H.L., 611.*

5. *Winding up—Contract to deliver foreign currency—Breach—Proof—Damages—Rate of Exchange.*—The principle for the ascertainment of the correct date for conversion out of one

currency into another in an action for damages resulting from breach of contract is not dependent upon the form of the procedure adopted, or on the fact that the court has invited the claimants to state what they claim to be due to them; and accordingly the amount of the damages whenever assessed by the court must always be based on the loss sustained at the date of the breach, and that is the correct date upon which the amount claimed ought to be converted.

*Lebeaupin v. Crispin* (1920, 2 K.B. 714) followed.  
*Re BRITISH-AMERICAN CONTINENTAL BANK* (No. 2), *Lawrence, J.*, 388.

6. *Winding up—Debt due to Food Controller—Crown debt—Priority—Prerogative of the Crown inconsistent with Legislation—Companies Act, 1862* (25 & 26 Vict., c. 89), s. 133—*Judicature Act, 1875* (38 & 39 Vict., c. 77) s. 10—*Preferential payments in Bankruptcy Act, 1888* (51 & 52 Vict., c. 62), s. 1—*Companies (Consolidation) Act, 1908* (8 Edw. 7, c. 69), ss. 186, 207, 209—*Bankruptcy Act, 1914* (4 & 5 Geo. 5, c. 50), ss. 33, 151—*New Ministries and Secretaries Act, 1916* (6 & 7 Geo. 5, c. 68), ss. 3, 4, 11.

The prerogative right of the Crown in the winding up of a company to claim payment of its debt in priority to all other creditors of the company is inconsistent with and abrogated by the provisions of the Companies (Consolidation) Act, 1908, ss. 186, 207 and 209, which negated the prerogative by giving certain specified debts priority over all other, including Crown, debts. Nor can the Crown claim the narrower prerogative right to take the assets of the company, by writ of extent or otherwise, to the exclusion of all other claims, and apart altogether from the winding up, for that also is inconsistent with ss. 186, 207 and 209 of the Act of 1908.—*Re H. J. WEBB & Co., C.A.*, 438.

7.—*Winding up—Foreign creditor—Debt due in foreign currency—Conversion into sterling—Rate of exchange applicable to Conversion—Whether at date of debt or date of winding up order—Where in a company's winding up a debt due to a foreign creditor in a foreign currency, incurred by reason of a breach of contract, is ordered to be converted into sterling for the purpose of being admitted by the liquidator, the rate of exchange at which the conversion is to be made is not the rate ruling at the date of the winding up but that on the date of the a breach of contract which gives rise to the debt.*

Principle laid down, as applicable to a case of tort, in *Owners of ss. "Celia" v. Owners of ss. "Vulturno"* (1921, 2 A.C. 544) applied to a case of breach of contract.

*Re BRITISH AMERICAN CONTINENTAL BANK, C.A.*, 647.

8. *Winding-up—Practice—Misfeasance summons—Transfer from County Court to High Court—Companies (Consolidation) Act, 1908* (8 Edw. 7, c. 69), s. 215—*Companies (Winding-up) Rules, 1909*, rule 43.—The of dprocedure for hearing a misfeasance summons by affidavit evidence which still obtains in the county court, and the fact that a continuous trial of a lengthy character cannot be had there without frequent adjournments, renders such a forum unsuitable for hearing such summonses when they are of a serious character raising issues affecting the honour of the directors, and accordingly such a summons will be transferred to the High Court to be dealt with by the new procedure there as set out in the Practice Note, W.N., 1921, p. 356.—*Re VESTAL HOSIERY CO., Lawrence, J.*, 334.

See also Criminal Law.

#### CONTRACT:—

1. *Construction—"Cargo of maize shipped"—Additional cargo of tobacco—Rejection.—A firm contracted to buy a "cargo of maize . . . shipped . . . per 'Rijn.'" On arrival at her destination the ship was found to contain a small additional cargo of tobacco which was not included in the bill of lading. The buyers sought to reject on the grounds (*inter alia*) that the words "the cargo" signified the entire quantity of goods loaded on board the "Rijn," and that the bill of lading tendered to them did not represent such entire quantity of goods.*

Held (confirming the award of an arbitrator), that the contract was for the sale of the cargo of the maize actually shipped on board the "Rijn" and that the buyers were not entitled to reject the goods.—*Re PAUL, LTD., AND PIM & Co., LTD., K.B.D.*, 93.

2. *Debt incurred abroad—Foreign currency—Action in England—Claim in foreign currency—Payment abroad in foreign currency after action brought—Whether accord and satisfaction—Discharge of debt.—The defendant, a married woman, in 1914, incurred a debt of 18,035 francs to the plaintiffs, a company incorporated in France. The plaintiffs issued a specially indorsed writ in England claiming 18,035 francs "the English equivalent of which on December 31, 1914, is £715 13s. 4d." After the issue of the writ the defendant called at the plaintiffs' hotel in France and paid 18,035 francs to a manager of the*

plaintiffs, who was unacquainted with the facts, and he gave her a receipt for the amount as money deposited with him. The defendant then pleaded that after action brought, the claim had been satisfied by payment of 18,035 francs to the plaintiffs.

Held (allowing the appeal), that the debt, being payable in French currency, had not ceased to be a French debt by reason of the action being brought in England, and that notwithstanding the depreciation in value of French currency as compared with English currency since the date when the debt became due and payable, the defendant's plea that after action brought she had satisfied the plaintiffs' claim by payment was made out.—*SOCIÉTÉ DES HOTELS LE TOUQUET PARIS-PLAGE v. CUMMINGS, C.A.*, 269; 1922, 1 K.B. 451.

3. *Russian Bank—Deposit of bonds with British Bank as security for loan from Mulhouse Bank—Russian Soviet Government—Nationalization of bank—Altered circumstances—Loss of entity—Repayment of loan—Inability to give receipt for bonds.—In January, 1914, certain Chinese and Brazilian bonds were deposited by the London branch of a Russian Bank with an English Bank as security for a loan. After the commencement of the Russian Revolution in 1917 the Soviet Government passed decrees for the nationalization of all Russian banks. The Russian Bank in question paid off the loan and demanded delivery of the bonds, which was refused.*

Held, that the Soviet Government being recognized by the British Government as the existing government in Russia, the Russian Bank no longer existed in view of the complete change of circumstances, and that the manager of the English branch of the Russian Bank, who was the real plaintiff in the action, could not sue for the delivery of the bonds under a power of attorney which had been conferred on him by the Russian Bank and could not give a valid receipt for them.

Held also, that the defendants were not estopped from setting up a defence, as the parties at the time of the negotiations contracted under a mutual mistake of fact.—*RUSSIAN COMMERCIAL BANK v. LE COMPTOIS, &c., K.B.D.*, 423.

4. *Sale of timber from America—Shipment before certain date—Meaning of "Shipment"—Whether on ship or railway wagon—Alleged customary meaning inconsistent with contract.—In a contract made in England and subject to English law the word "shipment" will have its ordinary meaning of the placing of goods on board a ship. The court will not hold that it has a customary meaning applying equally to the loading of the goods on railway wagons for transport to the port of shipment where such customary meaning is inconsistent with the terms of the contract.*

*The Turid* [1921], P. 146, followed.

Judgment of Mr. Commissioner Findlay, K.C., at Lancaster Assizes, reversed.—*MOWBRAY & Co. v. ROSSER, C.A.*, 315.

See also Damages, Infant, Lien, Sale of Goods.

#### COPYRIGHT:—

*Dramatic work—Cinematograph production—French plays—Performing rights—Agreement made before cinematograph was known—Exclusive right to production—Copyright Act, 1842* (5 & 6 Vict., c. 45)—*Copyright Act, 1911* (1 & 2 Geo. 5, c. 46), s. 35.—By agreements made in 1880 and 1883, the exclusive rights of production in Great Britain or her colonies of certain French plays were granted to persons under whom the defendants claimed as licensees. The plaintiff, as legal personal representative of the author, claimed to be entitled to restrain the defendants from infringing his rights by distributing film versions of the plays for cinematograph production.

Held, that the intention of the agreement was to transfer the exclusive rights of production by any method, and as "dramatic work" is defined by the Copyright Act, 1911, as including cinematograph production, the plaintiff had no English rights of any kind in the plays, and the action failed.—*SERRA v. FAMOUS LASKY FILM SERVICE, C.A.*, 298.

See also Appeal.

#### CORN PRODUCTION:—

*Master and servant—Workmen in agriculture—Minimum wage—Wages—Claim for arrears—Difference between wages paid and minimum rate—Action in High Court—Jurisdiction of High Court—Summary remedy not exclusive—Corn Production Act, 1917* (7 & 8 Geo. 5, c. 46), s. 4.—Section 4 of the Corn Production Act, 1917, requires employers of workmen in agriculture to pay them at a rate not less than the minimum rate as fixed under that Act, and renders any employer who fails to do so liable to a fine, and, further, empowers the Court to order the employer to pay, in addition to the fine, if any, such sum as appears to be due to the workman on account of wages, calculated at the minimum rate. There is a proviso that "the power to order the payment of wages under this provision shall not be in derogation of any right of the workman to recover wages by any other proceedings."

Held, that the remedy provided by the section to recover the amount due in respect of wages, did not oust other remedies, and, therefore, the High Court had jurisdiction to entertain a claim by an agricultural labourer to recover arrears of wages from his employer.—*WAGHORN v. COLLISON, C.A.*, 504.

# COSTS:—

1. *Compromise of specific performance action—Mortgage a term of—Separate fee for negotiating loan—Solicitors' Remuneration Act, 1881 (44 & 45 Vict., c. 44)—General Order, 1882, Rule 2.*—Where an action for specific performance was compromised on terms, one of which was that a large part of the purchase money should remain upon mortgage and another that the defendant should pay the plaintiff's taxed costs of the action on the footing of affording a complete indemnity.

Held, that where the bill of costs included items relating to the negotiations, including all the costs incurred by the vendor's solicitors in arriving at the terms of settlement, a separate fee could not be charged for negotiating the loan.—*HALL v. MINTER, Sargant, J.*, 157; 1922, 1 Ch. 191.

2. *Practice—Taxation—Junior counsel's fees.*—A junior counsel is entitled to be allowed two-thirds of the fee allowed to his leader, and the taxing master has no power to direct that the amount of the fee of junior counsel on the hearing before the master in chambers should be deducted from the amount of the fee allowed on the adjourned hearing before the judge in court, on the ground that the brief was practically the same on each occasion.—*Re PARK, Lawrence, J.*, 2.

3. *Taxation—Action by solicitor—Judgment under Order 14—Amount of Master's allocation—Disbursements made after date of bill—Counsel's fees—Payment made before taxation—Proceedings for taxation—Commencement by client—R.S.C., Order 65, r. 27 (29a).*—A solicitor delivered to his client a bill of costs, which had been drawn up in accordance with the directions laid down in the first part of sub-rule 29a of R.S.C. Order 65, r. 27. The bill expressly stated that certain disbursements, such as counsel's fees, had not then been made. An order was made under Order 14 that the bill should be referred to the master to be taxed pursuant to the Solicitors Act, 1843, and that the plaintiff should be at liberty to sign judgment for the amount found due on such taxation. The counsel's fees referred to were duly paid before the date of the taxation. Sub-rule 29a of r. 27 of R.S.C. Order 65, provides that in taxations under the Solicitors Act, 1843, of a solicitor's fees, charges and disbursements, no such disbursements shall be allowed which have not been actually made before delivery of the bill of costs, unless the bill shall expressly state that they have not then been made, and shall set out the unpaid items of disbursements under a separate heading in the bill, in which case they may be allowed if they are actually made before the commencement of the proceedings in which the taxation takes place, and are made in discharge of an antecedent liability of the solicitor (including counsel's fees) properly incurred on behalf of the client: Provided that if the proceedings for taxation shall have been commenced by the client or a third party, payments made by the solicitor pending such proceedings in discharge of any antecedent liability so set out in the bill (including counsel's fees) may be allowed if actually made before the commencement of the taxation.

Held, that the proceedings for taxation had been "commenced by the client" within the meaning of the proviso to sub-rule 29a, and as the fees had been paid before the commencement of the taxation the master had power to allow them.—*SMITH v. HOWES, C.A.*, 367; 1922, 1 K.B. 590.

# COUNTY COURT:—

*Appeal—Questions of law not raised in County Court—No jurisdiction in Divisional Court to allow appeal on grounds not raised below—County Courts Act, 1888 (51 & 52 Vict., c. 43), s. 120.*—The Divisional Court has no jurisdiction to reverse a decision of a county court judge upon points which were not raised in the county court.

Decision of the Divisional Court (66 Sol. J. 36 (b)) reversed.—*NELSON MURDOCH & Co. v. WOOD, C.A.*, 367.

# CRIMINAL LAW:—

1. *Abortion—Charge of administering poisons and drugs with intent to procure miscarriage—Use of instruments with the like intent—Separate counts—Trial of all the counts at the same time—Evidence—Admissibility—Offences against the Person Act, 1861 (24 & 25 Vict. c. 100), ss. 58, 59.*—The appellant, a doctor of medicine, was convicted on two counts of an indictment charging him with having administered or caused to be administered and supplied to one woman certain poisons and noxious drugs with intent to procure her miscarriage. Several other counts in the same indictment charged the appellant with

having used an instrument or other means upon three other women with like intent. He was tried on those counts at the same time as upon the two counts on which he was convicted, but was acquitted on them.

Held, that evidence that the appellant administered drugs to one woman with intent to procure her abortion was admissible in support of a charge of having used an instrument with this intent upon another and *vice versa*, not to prove thereby that he used the instrument or administered the drug, but to rebut the defence that he did so without any unlawful intent, and that, therefore, no question arose as to the propriety of all the counts of the indictment being tried together.

*Re v. Ellis* (1910, 2 K.B. 746; 26 T.L.R. 535) distinguished.—*REX v. STARKIE, C.C.A.* 300.

2. *Appeal—Practice—Shorthand Notes.*—Observations on the importance of shorthand notes of criminal trials.—*REX v. MONKMAN, C.C.A.*, 317.

3. *Charge against Newspaper Company—Limited Company—Committal for trial—Indictment—Presentation—Grand Juries (Suspension) Act, 1917 (7 Geo. 5, c. 4)—"Aiding and Abetting"—Main conviction quashed—Effect as to aider and abettor.*—There cannot be a proper committal of a limited company for trial on a criminal charge.

The fact that a criminal conviction against a limited company is quashed on the ground that a limited company cannot be committed for trial does not entitle a person convicted of aiding and abetting the company in doing the acts in question to have his conviction quashed also.—*REX v. DAILY MIRROR, C.C.A.* 559.

4. *Forgery—Possession of implements of forgery—Special paper for making bank notes—Possession of paper intended to resemble—"Bank of Engraving" Notes—Evidence—Non-production of genuine bank note for comparison—No expert evidence—Forgery Act, 1913 (3 & 4 Geo. 5, c. 27), s. 9.*—By s. 9 of the Forgery Act, 1913, "every person shall be guilty of felony . . . who, without lawful authority or excuse . . . (A) makes, uses or knowingly has in his custody or possession any paper intended to resemble and pass as (i) special paper such as is provided and used for making any bank note . . . (E) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines, or devices have been printed or in anywise made as aforesaid." On an indictment charging a prisoner with knowingly having in his custody or possession certain paper intended to resemble and pass as special paper such as was provided and used in making bank notes, contrary to para. (A), (i), of s. 9 of the Forgery Act, 1913, it is not necessary to produce a genuine bank note to the jury for comparison. Bank notes are so familiar that it is sufficient to hand the jury the alleged spurious notes for their inspection subject to proper direction. Where a man is found in possession of "bank of engraving" or other spurious notes, an indictment would be properly framed under para. (A), although the paper is printed on. It may also be framed under para. (E) of the section.—*REX v. WOODS, C.C.A.* 524.

5. *Gross indecency with young male person—Evidence—Complaint by young male person—Admissibility of fact of complaint—Admissibility of particulars of complaint.*—On the trial of a person charged with acts of gross indecency with a young male person, evidence is admissible against him of a complaint made by the young male person to his parents, shortly after the alleged offence was committed. Evidence of the particulars of the complaint is also admissible.—*REX v. CAMELLERI, C.C.A.* 667.

6. *Habitual Criminal—Evidence—Proof of substantive offence—Irregularity—"No substantial miscarriage of justice"—Criminal Appeal Act, 1907 (7 Edw. 7, c. 23), s. 4, s-s. (1)—Prevention of Crime Act, 1908 (8 Edw. 7, c. 59), s. 10.*—Where the prosecution, in charging an offender with being an habitual criminal under s. 10, s-s. (4) of the Prevention of Crime Act, 1908, rely on the commission of a crime as part of the material to show that he is "leading persistently a dishonest or criminal life," the crime must be proved to conviction in the usual way. Evidence of the commission of an offence cannot be given to the jury after they have been informed of the prisoner's previous convictions. To offer such evidence would be an irregularity, which, in the absence of material showing that the jury must inevitably have come to the same conclusion apart from such evidence, entitle the prisoner to have his conviction of being an habitual criminal quashed, notwithstanding the proviso to s. 4, s-s. (1) of the Criminal Appeal Act, 1907, whereby the court may dismiss the appeal if they consider that "no substantial miscarriage of justice has actually occurred."—*REX v. JONES, C.C.A.* 489.

7. *Habitual criminal—Practice and procedure—Before and during trial—After conviction—Sentence—Irregularity—No miscarriage of justice—Criminal Appeal Act, 1907 (7 Edw. 7,*

c. 23), s. 4, *Proviso—Prevention of Crimes Act, 1908* (8 Edw. 7, c. 59)—*Indictments Act, 1915* (5 & 6 Geo. 5, c. 90), Sched. 1, rule 11.—The proviso to s. 4 of the Criminal Appeal Act, 1907, enacts that the court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

Notwithstanding some errors in procedure on the trial on a charge of being an habitual criminal, the court applied the proviso and upheld the conviction and sentence.—*REX v. WILCOCK, C.C.A. 335.*

8. *Larceny as bailor—Conviction for obtaining jewellery by false pretences—Evidence proving prisoner guilty of larceny—Power of Court of Criminal Appeal to substitute another verdict—Criminal Appeal Act, 1907* (7 Edw. 7, c. 23), s. 5—*Larceny Act, 1916* (6 & 7 Geo. 5, c. 50), s. 44 (3), (4).—Where a prisoner is indicted for larceny as a bailor, the jury may, under s. 44 of the Larceny Act, 1916, convict him of obtaining the goods by false pretences, provided the circumstances are such as to amount by statute to an acquittal of larceny. But where the evidence goes to prove the prisoner guilty of larceny, the Court of Criminal Appeal will quash a conviction of obtaining goods by false pretences. Section 5 of the Criminal Appeal Act, 1907, does not apply in such circumstances.—*REX v. FISHER, C.C.A. 109.*

9. *Murder—Evidence—Poisoning—Administering arsenic—Subsequent alleged attempted murder of another person by administering arsenic—Admissibility of evidence.*—The appellant's wife died of arsenical poisoning. Some months later, the appellant was indicted for the murder of his wife. At the trial evidence was admitted by the learned judge, which tended to show that the appellant, some eight months after the death of his wife, attempted to poison another person by administering arsenic. At the time of the appellant's arrest, arsenic was found on him, and there was evidence of the purchase of arsenic by the appellant shortly before the occasions when the prosecution alleged that he administered the arsenic to his wife. There was also evidence that, on the occasions in question, the appellant was the only person who had the opportunity of administering arsenic to his wife. It was part of the defence that the appellant's wife died as the result of arsenic, but that the appellant had nothing to do with administering it to her, the suggestion being that the arsenic was taken by accident, or that the deceased committed suicide. The appellant said that he bought the arsenic to destroy weeds. He was convicted, and he sought to have his conviction quashed on the ground (among others) that the evidence relating to the subsequent attempted poisoning of another person was improperly admitted.

Held, that the evidence in question was properly admitted. It being an essential part of the case for the prosecution to prove that arsenic was designedly administered by the appellant to his wife, any evidence tending to prove design must tend to rebut the suggestion of accident or suicide. The fact that the defence withdrew the suggestion of accidental poisoning, and relied on the defence of suicide, did not preclude the prosecution from calling this evidence. It was also open to the prosecution to adduce this evidence in order to rebut the suggestion that the appellant kept the arsenic for an innocent purpose, namely, to destroy weeds.—*REX v. ARMSTRONG, C.C.A. 540.*

10. *Practice—Act of gross indecency—Attempt to procure—Evidence—Intercepted letters—Letters primâ facie innocent—Admissibility—Criminal Law Amendment Act, 1885* (48 & 49 Vict., c. 69), s. 11.—Letters, on the face of them innocent, but containing a code known to the addressee by means of which he would receive, through the apparently innocent letters, an invitation to commit an act of gross indecency with the writer, constitute an attempt to procure the commission of a crime within s. 11 of the Criminal Law Amendment Act, 1885.—*REX v. COPE, C.C.A. 406.*

11. *Practice—Habitual criminal—Procedure—Before trial—During trial—After conviction—Errors—Convictions quashed—Prevention of Crime Act, 1908* (8 Edw. 7, c. 59), ss. 10, 11—*Indictments Act, 1915* (5 & 6 Geo. 5, c. 90) Sched. 1, r. 11.—The provisions of the Prevention of Crime Act, 1908, in respect of sentences of preventive detention on habitual criminals must be strictly complied with. The indictment should be framed to show clearly that the person is charged with being an habitual criminal, and after verdict, but before sentence at the trial on the primary offence, the charge of being an habitual criminal should be clearly put to the prisoner for him to plead to. After conviction, the court is not obliged to pass a sentence of preventive detention, and cannot do so unless it passes a sentence of penal servitude on the primary offence.—*REX v. HARRIS, C.C.A. 317.*

12. *Threat—Intent to extort—Threatening to publish matter with intent to extort a valuable thing—Proposing to abstain from publishing matter with the like intent—Notice of intention to object to licence—Larceny Act, 1916* (6 & 7 Geo. 5, c. 50), s. 31.—The appellant served a notice on a publican to oppose his licence on the ground that he was a bookmaker. He had previously shown a betting book of the publican's to a friend and told him that he would "get him (i.e., the publican) with that." He afterwards said that if he obtained a cheque of £30 from the publican for certain costs he would "not oppose the licence." He obtained the cheque and withdrew the notice of opposition to the licence.

Held, that the notice of opposition to the licence was a threat within s. 31 of the Larceny Act, 1916, and that the appellant had also proposed to abstain from publishing matter within the meaning of the section. The appellant had therefore committed an offence against the section.—*REX v. WYATT, C.C.A. 143.*

13. *Trial—Indictment—Presentment under Grand Juries Suspension Act, 1917—Disagreement of jury—Adjournment to next sessions—Expiry of Grand Juries Suspension Act—Validity of subsequent proceedings—Grand Juries (Suspension) Act, 1917* (7 Geo. 5, c. 4)—*Interpretation Act, 1889* (52 & 53 Vict., c. 63), s. 38.—Where a valid indictment was duly presented at a Court of Quarter Sessions while the Grand Juries Suspension Act, 1917, was in force, the court had power to proceed with it as if a true bill had been found by a grand jury, and where, owing to the disagreement of the jury, the trial was not then concluded, but was adjourned to the following sessions, the expiry of the Grand Juries Suspension Act, 1917, before the following sessions, did not deprive the Court of Quarter Sessions of the power to proceed with the trial at those sessions.—*REX v. McLAIN, C.C.A. 474.*

#### CROWN :—

*Interpleader—Judgment in rem—Execution—Crown as claimant—Interpleader summons against Crown—Immunity of Crown—R.S.C. Ord. 57.*—Order 57 of the Rules of the Supreme Court, which contains the procedure regulating interpleader, does not bind the Crown and the court has no power to compel the Crown against its will to be made a party to an interpleader issue.

Decision of Hill, J. (*ante*, p. 218; 38 T.L.R. 38), affirmed.—*THE "MOGILEFF," C.A., 250; 1922, P. 122.*

#### DAMAGES :—

1. *Breach of contract—Publisher and author—Agreement to publish articles in book form—Repudiation by publisher—Measure of damages.*—Where a firm of publishers agreed to publish certain articles in a magazine and then to publish them in book form, and agreed to pay the authors a royalty on each copy of the book sold, but afterwards, after publishing the articles in the magazine, refused to publish them in book form, the measure of damages for the breach of contract must be based on so many copies of the book as would constitute a reasonable publication of the book.—*ABRAHAM v. RERACH, C.A. 390; 1922, 1 K.B. 477.*

2. *Injury caused by explosion in factory to neighbouring property—Liability of occupiers.*—D.N.P. (di-nitro-phenol), a substance formerly used in dyeing, was during the war, found to be capable of use as an ingredient in the manufacture of picric acid by a new process. In August, 1915, six persons as "contractors" entered into an agreement with the Minister of Munitions "to manufacture picric acid for him, from D.N.P., by the new process at their works at Rainham, Essex." They were "as agents of the Minister" to erect plant at their works, which was to be paid for by the Minister, and to remain his property, and he was to deliver D.N.P. at the works there to be converted into picric acid by the contractors at their sole risk at an agreed price per pound delivered. In March, 1916, the contractors formed themselves into a limited company, all the shares in which, except two, were allotted to themselves as fully paid. Two, F. and P., who had promoted the enterprise, were appointed sole governing directors of the company. All this was done without the consent of the Minister of Munitions, and, pending completion, the company were to be deemed to be in possession as the defendants' agents. The landlord never granted permission to assign. In the following September a violent explosion of D.N.P. occurred, causing loss of life and serious damage to adjoining property. In an action for damages against the company, and also against F. and P., Scrutton, L.J. (sitting as an additional Judge of the King's Bench), gave judgment for the plaintiffs, and his decision was affirmed by the Court of Appeal unanimously as regarded the liability of the company, but Younger, L.J., dissented as to the liability of F. and P.

Held, that the company was liable, and that F. and P. were also liable as they had not so divested themselves of their original occupation as to substitute the occupation of the company in place of their own.

*Fletcher v. Rylands* (L.R. 3 H.L. 330) discussed and applied. Decision of Court of Appeal (1920, 2 K.B. 487) affirmed.—*RAINHAM CHEMICAL WORKS v. BELVEDERE GUANO CO., H.L., 7; 1921, 2 A.C. 465.*

See also Negligence.

#### DIVORCE:—

1. *Alimony pendente lite—Proceedings for restitution of conjugal rights—Order for alimony pendente lite after decree—Matrimonial Causes Act, 1884 (47 & 48 Vict., c. 68, s. 2).*—The court has jurisdiction to award alimony pendente lite in proceedings for restitution of conjugal rights after the decree for restitution has been pronounced until the time for compliance with the decree has expired.—*VERMEHR v. VERMEHR, P.D., 4; 1921, P. 404.*

2. *Cruelty—Husband suffering from venereal disease—Inter-course—No infection—Reasonable apprehension of injury to health.*—To constitute *prima facie* legal cruelty it is sufficient to establish that a husband suffering from venereal disease with knowledge of the fact insisted upon intercourse with his wife against her wish, and it is not necessary to prove that such intercourse resulted in communication of the disease.

*Cioeci v. Cioeci* (1 Spinks, Ad. & Ecc. Cas. 121) overruled on this point.—*FOSTER v. FOSTER, C.A., 1; 1921, P. 438.*

3. *No defence by respondent husband—Defence by intervenor—Finding of adultery—Decree nisi—Successful appeal by intervenor—Intervention by King's Proctor—Decree rescinded—Matrimonial Causes Act, 1857 (20 & 21 Vict., c. 85), ss. 29, 30.*—A wife petitioned for a divorce on the ground of her husband's cruelty, and his adultery upon one occasion with a Miss R. The husband did not defend the suit, but Miss R. intervened and denied the adultery. Branson, J., found both charges proved, and made a decree nisi. The intervenor appealed, and the Court of Appeal found that she had not committed adultery, and dismissed her from the suit.

Held, upon intervention by the King's Proctor, that although there might be cases where a finding for or against a respondent would not necessarily incriminate or exculpate a co-respondent or intervenor, *vice versa*, yet ss. 29 and 30 of the Matrimonial Causes Act, 1857, had provided that the court must hear the evidence, and if not satisfied that adultery had been committed, dismiss the petition. There being only one act of adultery alleged, the finding of the Court of Appeal was one which, if found by Branson, J., would have compelled him to dismiss the suit. It was not a case in which the issues could be divided, and the decree must therefore be rescinded.—*RUTHERFORD v. RUTHERFORD, C.A., 283; 1922, P. 144.*

4. *Nullity of marriage—Woman capable of sexual intercourse but incapable of conception—Decree refused.*—Incapacity by a woman to conceive is no ground for a decree of nullity of marriage; therefore that relief was refused to a husband whose wife had, before marriage, undergone a surgical operation which rendered her incapable of bearing children, but did not render sexual intercourse impossible.

*D v. A*, falsely calling herself *D* (1 Rob. Ecc. 279) considered and applied.—*L. v. L., P.D., 613.*

See also Husband and Wife.

#### EASEMENT:—

*Light—Ancient lights—Prescription—Sufficient light for business purposes—Test—Not light taken but light left—Sill light—Quia Timet action.*—In an action to restrain obstruction of light to a woollen warehouse it was proved that if the defendants' building were erected, the worst lighted working point in any of the rooms would receive 0.8 per cent. of the sill light, the sill light being the light available at the outside sill of the window from an unobstructed horizon.

Held, that the defendants' building, when erected, would not constitute an actionable nuisance.—*CHARLES SEMON & CO. v. BRADFORD CORPORATION, Eve, J., 648.*

#### EDUCATION:—

1. *Elementary education—Public elementary schools—Visits to theatres—Shakespearean plays—Places of educational value or interest—Grants—Elementary Education Act, 1870 (33 & 34 Vict. c. 75), ss. 7, 97—"Educational Code" Articles 43 (b), 44 (b).*—The London County Council made grants from time to time to a committee which organised special performances by a professional theatrical company of Shakespearean plays for pupils attending the public elementary schools maintained by the council.

Held, that such expenditure was illegal, and that it was not a proper charge upon the funds of the Council.—*REX v. LYON, K.B.D., 19; 1922, 1 K.B. 232.*

2. *Non-provided school—Teacher's contract with managers—Dismissal by local education authority—"Educational grounds"—Jurisdiction—Education Act, 1902 (2 Edw. 7, c. 42), s. 7 (1) (7).*—Where a teacher in a non-provided school declines to accept a reduction of salary, and the managers decline to dismiss her for so declining, it is not open to the local education authority to terminate her agreement. A power to direct the managers to dismiss, or themselves to dismiss, is given to the authority by s. 7 (1) (a) of the Education Act, 1902, where the dismissal is on "educational grounds," but a mere desire to economise by reducing salaries is not an "educational ground." Notwithstanding that s. 7 of the Education Act, 1902, deals with the position as between the local education authority and the managers of a non-provided school, it is open to a teacher who has been wrongfully dismissed by the local authority purporting to act under the section to come to the court and obtain relief against the authority, and a declaration that the power of dismissal was not rightfully exercised.

Decision of Russell, J., affirmed.—*HANSON v. RADCLIFFE URBAN DISTRICT COUNCIL, C.A., 556.*

3. *Refusal of child to submit to medical examination—Attendance order—Liability of parent—Education (Administrative Provisions) Act, 1907 (7 Ed. 7, c. 43), s. 13—Children Act, 1908 (8 Ed. 7, c. 67), s. 122—Local Education Authorities (Medical Treatment) Act, 1909 (9 Ed. 7, c. 13), s. 3.*—The discretion conferred by s. 3 of the Local Education Authorities (Medical Treatment) Act, 1909, is not exercisable by a parent in the case of the special medical examination prescribed by s. 122 of the Children Act, 1908.—*FOX v. BURGESS, K.B.D., 335; 1922, 1 K.B. 623.*

See also Local Government

#### ELECTRICITY:—

*Electrical energy—"Supply"—Company—Local authority generating for its own purposes—Public lamps and tramways—Electric Lighting Acts, 1882 to 1909.*—A local authority generating and providing electrical energy for its own purposes, such as lighting public lamps and working tramways, is not supplying and distributing electricity within the meaning of s. 23 of the Electric Lighting Act, 1909.—*ATTORNEY-GENERAL v. SOUTHPORT CORPORATION, Eve, J., 710.*

#### EMERGENCY LEGISLATION:—

1. *Landlord and tenant—Distress for rent—County court judge—Discretion—Courts (Emergency Powers) Act, 1914 (4 & 5 Geo. 5, c. 78), s. 1 (1), (b), (2)—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 5 (2), 6.*—A landlord made an application under the Courts (Emergency Powers) Acts, 1914-1917, and the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, for leave to levy a distress for rent. It was admitted that the tenant was not under inability to pay the amount by reason of circumstances directly or indirectly attributable to the recent war, but it was contended by the tenant that, having regard to the Statute of 1920, there was a *bona fide* dispute between himself and the landlord as to the amount due.

Held, that the discretion to be exercised as to the making of an order giving leave to levy a distress was not limited to the question of the ability or inability of the tenant to pay the rent on account of circumstances attributable directly or indirectly to the war, but that, in an application under s. 6 of the Act of 1920, a tenant should be admitted to shew, if he could, that there was a *bona fide* dispute as to the amount payable, and that the discretion of the court should only be exercised after due enquiry had been made into the questions arising out of such an application.—*TOWNSEND v. CHARLTON, K.B.D., 389; 1922, 1 K.B. 700.*

2. *Landlord and tenant—Dwelling-house—Weekly tenancy—Increase of rent—Notice—Requirement of previous notice to quit—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 10), s. 3 s.s. (1).*—By s. 3, s.s. (1) of the Increase of Rent and Mortgage Interest Act, 1920, "nothing in this Act shall be taken to authorise any increase of rent except in respect of a period during which but for this Act the landlord would be entitled to obtain possession."

The effect of the sub-section is that the giving of a notice to quit, where the tenancy does not otherwise expire, is a condition to the landlord's right to recover increased rent from a tenant.—*NEWELL v. CRAYFORD COTTAGE SOCIETY, C.A., 472; 1922, 1 K.B. 656.*

3. *Landlord and tenant—Factory—Business premises—Conversion of three dwelling-houses into a factory—New building—Standard rent—Increase of Rent and Mortgage Interest*

(Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), ss. 1, 12, 13 and 14.—Where a landlord reconstructed and converted three adjoining houses, which were within the protection of the Increase of Rent, &c., Restrictions Act, 1915, into a factory, and in 1920, let the factory for the first time as such, the standard rent of the factory, for the purposes of the Increase of Rent and Mortgage Interest Act, 1920, is the rent at which it was first let in 1920. The factory is a new building and the aggregate standard rent of the three dwelling-houses does not apply to it.—*PHILLIPS v. BARNETT, C.A.*, 124; 1922, 1 K.B. 222.

4. Landlord and tenant—New tenancy—Increased rent—No notice given of intention to increase rent—Increase of rent and Mortgage Interest Restriction Act, 1920, s. 3.—A tenant of premises to which the Increase of Rent, &c., Act, 1920, applies can recover from the landlord any sums paid by him in excess of the standard rent in respect of increase of rent even under an agreement for a new tenancy if he has not received from the landlord notice of his intention to increase the rent as provided by s. 3 of the Act.—*SCHMIT v. CHRISTY, K.B.D.*, 539; 1922, 2, K.B. 60.

5. Landlord and tenant—Notice by tenant of intention to quit—Tenant leaves at expiration of notice—Holding over by sub-tenant—Statutory tenancy—Cesser of tenant's interest—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 15, s-s. (3).—A tenant gave due notice to his landlord of his intention to quit certain premises. He also gave notice to a sub-tenant, to whom he had let a portion of the premises, to quit the premises before the expiration of the notice. The tenant duly quitted the premises, but the sub-tenant refused to do so, and, relying on the protection afforded by the Rent Restriction Acts, remained in occupation for a further period of seventeen months, paying rates and taxes, but not paying rent to anyone. The sub-tenant then left the premises, and the landlord commenced an action against the tenant for six quarter's rent, or alternatively, the same amount for use and occupation of the premises.

Held, that the interest of the tenant ceased when he left the premises at the expiration of the notice, and that he did not subsequently continue in occupation through the sub-tenant as his agent, and could not be held liable for rent or damages for the use and occupation of the premises by the sub-tenant after the expiration of the notice.—*REYNOLDS v. BANNERMAN, K.B.D.*, 504; 1922, 1 K.B. 719.

6. Landlord and tenant—Notice to quit and notice of increase of rent—Holding over—House not fit for human habitation—Jurisdiction—High Court—County Court—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 2 (2) (6).—The emergency legislation has allocated to the county court applications for suspension of increases of rent under s. 2 (2) of the Increase of Rent and Mortgage Interest (Restrictions) Act, and applications under that subsection cannot be entertained by the High Court.—*X RAYS LTD. v. ARMITAGE, K.B.D.* 351.

7. Landlord and tenant—Tenancy for fixed term—Intermittent occupation—Recovery of possession—Right of re-entry—Trespass by landlord—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, ss. 5 (1) (d), 8 (3), 12 (2), 15.—A tenancy for a fixed term, determinable without notice by effluxion of time, is within the Increase of Rent, &c., (Restrictions) Act, 1920. A tenant who holds on after the determination of the term becomes a statutory tenant, and the landlord is not entitled to exercise his common law right of re-entry, although the circumstances are such that the court would and does, on his application, make an order for possession. If he does re-enter, he is liable in damages for trespass, but unless there are aggravating circumstances, the damages must be limited to the actual damages proved.—*CRUISE v. TERRELL, C.A.*, 365; 1922, 1 K.B. 664.

8. Standard rent—Determination—Jurisdiction of County Court judge—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 2, s-s. (1), (6), 12.—An application was made to a county court judge, in which the sole question for his decision was the amount of the standard rent of certain premises.

Held, that he had no general jurisdiction to decide this question when it was the sole question submitted for his decision.—*BROOMHALL v. PROPERTY AGENTS AND OWNERS, LTD., K.B.D.*, 125; 1922, 1 K.B. 311.

See also Landlord and Tenant, Mortgage.

#### FIREARMS:—

Possession without certificate—Officer of post office—Firearms Act, 1920 (10 & 11 Geo. 5, c. 43), s. 1 (1), (8), (7).—Under the provisions of the Firearms Act, 1920, an officer of the post office is not entitled to have a firearm in his possession without a certificate except when it is in the course of transmission

through the post, or when he is authorised to have it in his possession in the course of his duties.—*DICKINSON v. BAINBRIDGE, K.B.D.*, 196; 1922, 1 K.B. 433.

#### GAMING:—

1. Betting losses paid by cheque—Mode of payment by drawee of bets won by drawer—Drawer's cheques returned by drawee—Gaming Act, 1835 (5 & 6 Will. 4, c. 41), s. 2.—Certain cheques were paid to a bookmaker in respect of betting losses incurred by the drawer of the cheques. The bookmaker returned some of the cheques to the drawer in settlement of a sum due from him to the drawer in respect of certain bets which the drawer had won from him.

Held, that the bookmaker, by his conduct in returning the cheques to the drawer, did not "actually pay" the money and was not entitled under s. 2 of the Gaming Act, 1835, to deduct the amount which he had thus purported to pay to the drawer from the amount recoverable from him by the drawer under that section.—*MALONE v. POWELL, K.B.D.*, 577.

2. Cheque given for racing bet—Banker receiving for collection—"Indorsee" or "holder"—Gaming Act, 1835 (5 & 6 Will. 4, c. 41), ss. 1, 2.—By the Gaming Act, 1835, s. 1, notes, bills and mortgages given as security for money lost in bets on horse races are to be deemed to be made, drawn, accepted, given or executed for an illegal consideration.

By s. 2: "In case any person shall . . . make, draw or execute any note etc. for any consideration on account of which the same is" (by certain statutes) "declared to be void and such person shall actually pay to any indorsee, holder or assignee of such note, etc., the amount of the money thereby secured or any part thereof, such money so paid shall be deemed and taken to have been paid for and on account of the person to whom such note, etc., was originally given upon such illegal consideration as aforesaid and shall be deemed and taken to be a debt due and owing from such last named person to the person who shall so have paid such money and shall accordingly be recoverable in an action at law."

The plaintiff, B, who had lost bets on horse racing to the defendant, S, drew a cheque in favour of S crossed "Account of payee. Not Negotiable." S paid the cheque into his own account with his bankers, who collected it in due course from B's bankers. B subsequently decided to sue S for the return of the money so paid, and based his right to recover on the decision of the Court of Appeal in *Dey v. Mayo*, 64 Sol. J. 240; (1920), 2 K.B. 346. The trial judge and the Court of Appeal entered formal judgment for the plaintiff on the ground that the facts in the present case were indistinguishable from those in *Dey's Case*.

Held, that *Dey v. Mayo* was rightly decided. Section 2 preserved the right of the loser of a bet to recover the amount when it was paid by a cheque thenceforth made enforceable in the hands of a third party under the conditions stated in s. 1.

Held, further, that "holder" included the original payee and that the bankers were "holders or indorsees" even when they were mere agents for collection.—*SUTTERS v. BRIGGS, H.L.*, 9; 1922, 1 A.C. 1.

3. Cheques paid for betting debts—Bankruptcy of drawer—Action to recover amount from payee—Duty of trustee in bankruptcy as officer of court—Honourable conduct.—Where a man who has paid betting losses by cheque has been adjudicated a bankrupt, his trustee in bankruptcy has not only the right, but a duty on behalf of the creditors of the bankrupt to sue for and recover the amount so paid under the provisions of the Gaming Act, 1835. The court will not hold that its officer is acting dishonourably in enforcing a statutory liability.

*Ex parte James* (L.R. 9 Ch. App. 609) and *In re Thellusson* (1919, 2 K.B. 735), distinguished.

Decision of *Astbury, J.* (ante, p. 422) reversed.—*SCRANTON'S TRUSTEE v. PEARSE, C.A.*, 503.

4. Payment of racing bets by cheque—Recovery from payee—Promise express or implied to pay—Promise null and void—Gaming Act, 1835 (5 & 6 Will. 4, c. 41), ss. 1, 2—Gaming Act, 1845 (8 & 9 Vict., c. 109), s. 18—Gaming Act, 1892 (55 Vict., c. 9), s. 1.—The plaintiff sued the defendant to recover money paid by cheque for betting losses. The defendant contended that by the Gaming Act, 1835, s. 2, money paid by cheque within the section "shall be deemed and taken to be a debt due and owing . . . to the person who shall so have paid such money and shall be recoverable by action at law in any of His Majesty's Courts of Record." To make a debt there must be an express or implied promise to pay. Such implied promise came within s. 1 of the Gaming Act, 1892, which provided "any promise express or implied to pay any person any sum of money paid by him under or in respect of any contract or agreement rendered null and void by the Act (8 and 9 Vict.,

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c. 109) . . . shall be null and void, and no action shall be brought or maintained to recover any such sum of money." The Act 8 & 9 Vict., c. 109, had enacted by s. 18, that "all contracts or agreements whether by parole or in writing, by way of gaming and wagering shall be null and void." The defendant said that the effect of s. 1 of the Act of 1892 was impliedly to repeal s. 2 of the Act of 1835, and, notwithstanding the recent decisions in *Dey v. Mayo* (64 Sol. J. 240; 1920, 2 K.B. 346) and *Sutlers v. Briggs* (66 Sol. J. 48; 1922, A.C. 1), to make the action unmaintainable.

Held, that as the Act of 1835 used the words "shall be deemed and taken to be a debt due and owing" no promise was required to make it a debt. The action was in effect one to recover a debt due by statute, and was not affected by the Act of 1892.—*COHEN v. HALL, C.A.*, 349; 1922, 2 K.B. 37.

See also Limitations, Statute of.

#### HIGHWAY :—

1. *Extraordinary traffic—Steam wagons and trailers—No other similar traffic—Country road—Highways and Locomotives (Amendment) Act, 1878* (41 & 42 Vict., c. 77), s. 23.—The owners of a stone quarry conducted their traffic on certain roads, which were not main roads, by means of heavy steam wagons and trailers instead of as formerly by horse-drawn carts of much less weight, and there was at the time no traffic comparable with it in quantity or frequency.

Held, that the traffic was extraordinary traffic within s. 23 of the Highways and Locomotives (Amendment) Act, 1878.—*H. BUTT & Co. v. WESTON-SUPER-MARE D.C., H.L.*, 332; 1922, 1 A.C. 340.

2. *Local authority—Repairs—Road not safe for traffic—Accident—Negligence—Liability—Non-feasance—Misfeasance.*—A motor-cab was overturned late at night, owing to the disturbed condition of a highway, at a point which was being repaired by the local authority. At 4.30 p.m. on the previous afternoon the workmen had left the road in the following condition—one-half consisting of loose stones which had been rolled in by a steam-roller, and the other half undisturbed for the passage of traffic. The latter half was at a lower level than the former. The road was left unguarded and without lights, and, during the evening, the loose stones were disturbed, owing to the passage of a number of char-a-bancs, and the accident occurred while the road was in this condition.

Held, affirming the decision of the county court judge, that a case of misfeasance had been proved against the local authority.

*Shoreditch Borough Council v. Bull* (90 L.T.R. 210); *Great Central Railway Co. v. Hewlett* (1916, 2 A.C. 511) and *McLelland v. Manchester Corporation* (1912, 1 K.B. 118) referred to.—*PARKINSON v. WEST RIDING OF YORKS C.C., K.B.D.*, 488.

#### HOUSING :—

*Building scheme—Acquisition of beerhouse for purpose of controlling traffic in intoxicating liquor—Powers—Housing, Town Planning, &c., Act, 1919* (9 & 10 Geo. 5, c. 35), s. 12.—Section 12 of the Housing, Town Planning, &c., Act, 1919, gives the local authority power to acquire a beerhouse with the object of controlling and regulating the sale of intoxicating liquor therein, because the power to acquire the house is only incidental to the power to control the area acquired, and it is of no importance that the house and its site are not required for use as a workman's dwelling.—*CONSON v. LONDON C.C., Peterson, J.*, 350.

See also Local Government.

#### HUSBAND AND WIFE :—

1. *Marriage settlement—Gift to children of first or any future wife—Subsequent form of marriage with deceased wife's sister—Deceased Wife's Sister's Marriage Act, 1907* (7 Edw. 7, c. 47), ss. 1 and 2.—Where settlement funds were to be held in trust for the children of A as well by B as by every and any future wife he might marry, and A, after the death of B, by whom he had three children who all attained 21 in his lifetime, went through the form of marriage with the sister of his dead wife and had three children by her, and subsequently the Deceased Wife's Sister's Marriage Act, 1907, by s. 1 legalized that marriage.

Held, that the effect of s. 2 was to provide that rights of property existing at the date of that marriage were not to be altered or interfered with, and that accordingly the children of the second marriage took no share of the settlement funds.—*Re SPRINGFIELD, Russell, J.*, 268.

2. *Restitution of conjugal rights—Wife's suit—Sincerity of petitioner.*—It is necessary that the petitioner in a suit for restitution of conjugal rights should have a sincere desire for the relief prayed for.—*MANN v. MANN, P.D.*, 7.

3. *Separation deed—Usual clauses—Indemnity against wife's debts—Debts incurred before separation—Arbitration.*—A suit for a judicial separation brought by the wife was compromised and the parties agreed to execute a separation deed to be settled by counsel and to contain the usual clauses.

Held, that it was not a usual clause to require the wife to indemnify her husband against her debts contracted previously to the separation and that the clause must be struck out.—*BRAILEY v. BRAILEY, C.A.*, 13; 1922, P. 15.

4. *Wife's undefended suit for restitution of conjugal rights—Return by husband to cohabitation during pendency of suit—No bonâ fide intention by husband to resume cohabitation—Decree.*—After the wife had filed a petition for restitution of conjugal rights in consequence of her husband having left her, he returned to her and occupied the same bed with her for eighteen days, but refused marital intercourse or to associate with her, and he also kept on an establishment of his own. He stated to his wife that he only returned to her to avoid the publicity of the proceedings for restitution, and never intended to live with her as her husband. He then left her again and stated the above again in a letter which he left for her.

The Court held that there was no genuine attempt or intention on the part of the husband to return to his wife, and pronounced a decree on the wife's petition.—*WEBSTER v. WEBSTER, P.D.*, 486.

See also Lunacy.

#### INDUSTRIAL SOCIETY :—

*Incorporated company—Debenture—Bill of sale—Severance of security—Bills of Sale Act, 1882* (45 & 46 Vict., c. 43), s. 17.—A society incorporated under the Industrial and Provident Societies Act, 1893, is not an incorporated company within the exceptions in s. 17 of the Bills of Sale Act, 1882.

*Great Northern Railway Co. v. Coal Co-operative Company* (1896, 1 Ch. 187) followed.

Where a debenture created by such a society charged "all its property whatsoever and wheresoever" and at the date of the winding-up of the society the assets thereof consisted of book debts, cash, fixtures and personal chattels, the charge, although described in general terms, is severable, and is a valid charge upon such of the assets as do not consist of "personal chattels."

*In re Burdett* (1888, 20 Q.B.D. 310) applied.—*Re NORTH WALES PRODUCE & SUPPLY SOC., Lawrence, J.*, 439.

#### INFANT :—

*Contract—Apprentice—Repudiation owing to conduct of apprentice—Consent by infant to rescission.*—An infant being desirous of terminating a contract under which he was serving as an apprentice persistently conducted himself in such an insubordinate manner that his employer rescinded the contract.

Held, in an action brought on behalf of the infant for wrongful dismissal, that the contract could not be rescinded unless there was evidence that its rescission would be for the benefit of the infant.—*WATERMAN v. FRYER, K.B.D.*, 108; 1922, 1 K.B. 499.

#### INSURANCE :—

1. *Burglary—Alien insuring under assumed name—Non-disclosure—Materiality—Absence of fraud.*—An alien took out a householder's comprehensive policy and omitted to disclose the facts that he was a Roumanian, and that the English name, under which he had taken out the policy, was not his real name. He had assumed the English name many years ago for convenience shortly after being brought to live in England, at the age of twelve, and had since then been known by that name. A burglary occurred on the premises occupied by him, and he sought to enforce the policy in respect of the loss occasioned to himself by reason of the burglary.

Held, that although there were circumstances under which a non-disclosure of this nature might be immaterial, underwriters could not be expected to know anything of the habits and traditions of the state of which the plaintiff was a subject; and that, while no reflection was, of course, cast upon the national characteristics of that state, the plaintiff had, in not disclosing his real name and nationality, failed to disclose material facts and could not enforce his claim in respect of the policy.

*Joel v. Law Union & Crown Insurance Co.* (1908, 2 K.B. 863) referred to.—*HORNE v. POLAND, K.B.D.*, 368.

2. *Fire—Breach of condition in policy—Refusal to pay claim—Waiver by taking possession—Estoppel.*—An insurance company refused to pay the loss caused by fire on the ground that the assured had not complied with the conditions of the policy, but, whilst denying the claim, they had taken and retained possession of the property and salvage.

Held, that the company by taking possession was estopped from denying the validity of the claim.—*YORKSHIRE INSURANCE CO. v. CRAINE, P.C.*, 708.

3. (Unemployment)—Employed persons—Excepted employments—Domestic service—Club servants—School servants—Unemployment Insurance Act, 1920 (10 & 11 Geo. 5, c. 30), s. 10, First Schedule, Part II (b).—The "excepted employments" for the purposes of the Unemployment Insurance Act, 1920, are set out in Part II of the First Schedule to the Act, and include (b) "employment in domestic service except where the employed person is employed in any trade or business carried on for the purposes of gain."

Held, that the club servants were persons engaged in domestic service and that the Junior Carlton Club not being carried on as a commercial enterprise, such servants were not insurable persons.

Held, also, and on the same ground, that school servants employed by house masters either of public schools such as Rugby or at a grant aided secondary public school, such as Brigg Grammar School, did not come within the exception and therefore were not insurable.—*Re UNEMPLOYMENT INSURANCE ACT, 1920, K.B.D.*, 1.

4. (Unemployment)—Employment in domestic service except where employed in any business—Charwoman—Solicitor's office—Unemployment Insurance Act, 1920 (10 & 11 Geo. 5, c. 30), s. 1, Sched. I, Part II (b).—A charwoman, who cleans a solicitor's office, and who only works there out of office hours, is not employed in the business of a solicitor so as to be insurable under the Unemployment Insurance Act, 1920.—*Re WILKINSON, K.B.D.*, 269; 1922, 1 K.B. 584.

See also Shipping.

#### INTERPLEADER :—

*Bill of Sale—Registration—Gift (post nuptial) by husband to wife—Joint possession—Possession following title—"Order and disposition or reputed ownership"—Bills of Sale Act, 1878 (41 & 42 Vict., c. 31) ss. 4, 8—Married Women's Property Act, 1882 (45 & 46 Vict., c. 75), s. 10.—Judgment creditors having levied an execution at the house of the judgment debtor, the debtor's wife claimed the goods under a post-nuptial deed of gift executed by the debtor in her favour "for natural love and affection." The deed was not registered under the Bills of Sale Act, 1878, and the goods remained in the house where the husband and wife continued to live together, as they did at the time of the execution of the deed.*

Held, (1) (following *Ramsay v. Margrett* (1894, 2 Q.B. 18)), that after the execution of the deed, the furniture was as much in the possession of the wife as in that of her husband, and as possession followed the title the goods were in the possession of the wife, and the deed did not require registration under the Bills of Sale Act, 1878, as a bill of sale; and (2) that the judgment creditors of the husband were not entitled to levy execution on the goods, because, in the absence of evidence that the goods, after the gift, remained in the order and disposition or reputed ownership of the husband, s. 10 of the Married Women's Property Act, 1882, did not invalidate the deed of gift. Decision of the Divisional Court (Lush and Sankey, JJ.) (65 Sol. J., 696; 1921, 3 K.B. 280), affirmed.—*FRENCH v. GETTING, C.A.*, 140; 1922, 1 K.B. 236.

#### LANDLORD AND TENANT :—

1. *Covenant not to "permit" the house to be used other than as a private dwelling-house—House underlet in separate tenements—Abstention from action against under-tenants—Reasonable probability of failure.*—The defendants were the assignees of an eighty years' lease of premises of which the plaintiffs were the freeholders. The lease contained a covenant by the lessee "not to permit" the house to be used otherwise than as a private dwelling-house. The defendants granted a seven years' lease of the premises to M, subject to similar covenants. M, in breach of his covenants, underlet the premises as weekly tenements to four families as his sub-tenants of the different floors. The defendants took action and recovered possession of the premises as against M only, but they took no action to eject the weekly under-tenants, on the ground that they were advised that, having regard to the provisions of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, they could not reasonably hope to succeed and that there was every probability of failure.

Held, that abstention from taking action in such circumstances did not constitute permitting the acts to continue, and the plaintiffs had failed to establish that the defendants had committed a breach of covenant in so abstaining.

Judgment of *Coleridge, J.*, reversed.—*BERTON v. ALLIANCE ECONOMIC INVESTMENT CO., C.A.*, 487; 1922, 1 K.B. 472.

2. *Covenant not to sub-let without consent—Part of demised premises sub-let with consent—Remainder sub-let subsequently without consent—Forfeiture.*—A covenant by a tenant not to sub-let, assign or part with possession of the lessor's premises without the latter's consent is broken by a tenant who, after sub-letting part of the premises with consent, subsequently sub-lets all the remainder without the consent being obtained. Notwithstanding that the covenant refers to the premises as a whole, and does not specifically prohibit the sub-letting of "any part thereof," the sub-letting of the final portion constitutes a sub-letting of the whole premises, and, as the consent obtained was only in respect of a portion, it is a sub-letting of the whole premises without consent, entitling the lessor to enforce a forfeiture.—*TERRELL v. CHATTERTON, C.A.*, 631.

3. *Covenant to repair—Breach—Possession by military authorities—Act of State—Impossibility of performance—Title paramount—Rent.*—The lessee of a house covenanted to insure against fire and yield up in good repair. During the term the house was requisitioned by the military authorities, and while in their occupation was destroyed by fire. The lessor sued the lessee for rent and damages for breach of covenant.

Held, that the lessor was entitled to succeed on both points. Decision of Court of Appeal affirmed.—*MATTHEY v. CURLING, H.L.*, 386.

4. *Covenant to repair by landlord—Notice of Disrepair—Sea wall—Knowledge of non-repair.*—A landlord under covenant to repair can be sued by the tenant without notice, if the landlord knew or had the means of knowing that the premises were out of repair.—*MURPHY v. HURLY, H.L.*, 314; 1922, 1 A.C. 369.

5. *Emergency legislation—Dwelling-house—Conversion into separate flats—New dwelling-houses—Standard rent—Apportionment—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 12, s.-ss. (1), (2), (3), (9).*—On 3rd August, 1914, a dwelling-house was let as an ordinary undivided dwelling-house at a rent of £65 per annum exclusive of rates. It was assessed as a whole at £65 gross and £55 rateable. In 1916 the owner converted the house into three separate and self-contained flats, all of which, after conversion, were separately assessed. In 1917 the owner let one of the flats to the appellant at a rent of £50 a year. The appellant, in October, 1920, applied to the County Court under s. 12, s.-s. (3) of the Act of 1920, for an order apportioning the rent for the purpose of fixing the standard rent of the flat.

Held, that no apportionment was necessary because the identity of the original dwelling-house had been destroyed by its conversion into flats, and the standard rent of the original dwelling-house was therefore inapplicable for the purpose of fixing the standard rent of the flats. The flat in question was a new dwelling-house, let for the first time in 1917 at a rent of £50 per annum. Therefore, by s. 12, s.-s. (1), of the Act of 1920, the standard rent of the flat was £50, which was "the rent at which it was first let" after conversion.

Decision of the Divisional Court (37 T.L.R. 743; 19 L.G.R. 497; 1921, W.N. 206) affirmed.—*SINCLAIR v. POWELL, C.A.*, 235; 1922, 1 K.B. 393.

6. *Emergency legislation—Landlord after service in H.M. forces—Notice to quit—Executrix of deceased soldier claiming possession—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 5 (1) (f), and s. 12 (1) (f).*—The landlord of certain premises, who had become landlord after service in His Majesty's Forces, gave notice to quit to a tenant in order that he might occupy the premises himself. After his death, possession not having previously been obtained, his widow, who was also his executrix, took proceedings in the county court in order to obtain possession of the premises. The county court judge made an order giving her possession.

Held (reversing the decision of the county court judge), that the fact that she had not served with His Majesty's Forces appeared to be conclusive of the matter, and that the appeal must be allowed.—*SQUIER v. HORE, K.B.D.*, 15.

7. *Emergency legislation—Notice of increase of rent—Form—Validity—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 3 (1), (2), Sch. 1.*—In July, 1920, a landlord gave notice to quit to the occupant of a dwelling-house. This was followed by a notice of increase of rent under the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920. The notice to quit was invalid and a subsequent valid notice to quit was served, on the tenant in December, 1920. No further notice of increase of rent was, however, served on him. An action was brought by the landlord against the tenant for rent.

Held, that the notice of increase of rent served on the tenant in July, 1920, was invalid (1) as it was not accompanied by or preceded by a valid notice to quit, and (2) as the dates specified

in it were not correct—the dates constituting a substantial part of the form of the notice required by the statute.—*PEIZER v. FEDERMAN, K.B.D.*, 108.

8. *Emergency legislation—Notice to quit—Notice of increase of rent—Further notices of increase of rent without further notices to quit—Tenant holding over—Statutory tenancy—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), ss. 3, 15, 16 (3).*—A tenant of premises within the provisions of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, was served with notice to quit, and a notice of increase of rent. Subsequent notices of increase of rent were served on him and complied with, but no further notice to quit was served on him. In May, 1920, a notice of increase of rent was served on him, and he refused to pay the increase, but continued to occupy the premises.

Held, in an action by the landlord for possession, that the tenant was a statutory tenant and that it was not necessary for the landlord to serve a fresh notice to quit with each notice of increase of rent, there being no facts indicating an agreement for a fresh tenancy; and that the fact that the landlord had accepted rent more than three months after the notice to quit was not a waiver of the notice to quit so as to create a fresh tenancy.—*SHUTER v. HERSH, K.B.D.* 158; 1922, 1 K.B. 438.

9. *Monthly tenancy—Notice to quit—Day other than last day of calendar month—Reasonable notice.*—In order to determine a monthly tenancy reasonable notice must be given, and a reasonable notice to quit premises held on a monthly tenancy is not necessarily determinable on a day corresponding to that on which the tenancy began, but may expire at any time without regard to the day of the commencement of the tenancy.—*SIMMONS v. CROSSLEY, K.B.D.* 524; 1922, 2 K.B. 95.

10. *Tenancy from year to year—Tenancy for certain—Claim to right of perpetual renewal—Words "Year to year" not having technical meaning—Notice to quit—Acceptance of rent after alleged expiration of tenancy—Claim to declaration without consequential relief.*—S was tenant of premises from 25th March, 1917, for one year, with right to renew for two years from March, 1918, by giving two months' notice. In March, 1918, S and the lessor agreed that S should renew for one year only, but with an option to renew again for another year at the end of it. In January, 1919, S wrote that he would exercise his option "if you will now give me an option to continue after 25th March, 1920, from year to year on the same terms, provided that each year before 25th March I give you one month's notice of my intention to continue." The lessor assented, and S drew up an agreement, which was executed by the parties, which stated that the lessor "hereby grants the tenant the option to continue the tenancy after 25th March, 1920, from year to year on the same terms . . . provided that in each year before 25th March, the tenant gives one month's notice in writing of his intention to continue . . ." The lessor sold her interest in the property to G, and on 21st September, 1920, G gave S six months' notice to quit. S, in January, 1921, gave notice of his intention to exercise his option for another year, and G brought an action for a declaration that the notice to quit was good and determined the tenancy. S counter-claimed a declaration that he held the premises as tenant from year to year, with the right of perpetual renewal during the continuance of the interest which had been vested in the original lessor. After the expiration of the notice to quit, G accepted rent from S.

Held, that the right to perpetual renewal was inconsistent with a tenancy from year to year, but that there was in fact no such tenancy. The words "from year to year" had been used in the correspondence and the agreement, and by S in his counter-claim, but the words were not used in their technical sense, and were not the governing part of the clause in the agreement. Also, by accepting rent from S after expiration of the notice to quit G had deprived it of any effect it ever could have had.

Held, further, that S had a legal tenancy with a right in equity to ask for specific performance of the agreement to extend his tenancy in accordance with the option, but he had not asked for specific performance, and, not praying for any consequential relief, was not entitled to a declaration.—*GRAY v. SPYER, C.A.*, 387; 1922, 2 Ch. 22.

See also *Agricultural Holdings, Arbitration, Emergency Legislation.*

**LIEN:—**

*Contract for work to be executed on goods—Sub-contract—Retainer by sub-contractor against owner—Express and implied authority.*—The owner of a motor car employed X to build a saloon body for his car. X sub-contracted with a firm for this work to be done and was duly paid in full by the owner. After the completion of the work X obtained possession of the car from the firm and re-delivered it to the owner. The car was

subsequently sent to the firm for further repairs. On completion of these repairs they sent in their account and claimed to exercise a lien on the car for money so far unpaid by X. The owner then commenced an action against the firm for the re-delivery of the car or its value.

Held, that he was entitled to succeed in the action, as he had given neither express nor implied authority to X to create a lien on the car in favour of the firm.—*PENNINGTON v. RELIANCE MOTOR WORKS, K.B.D.*, 607.

**LIGHT.**—See *Easement.*

**LIMITATIONS, STATUTE OF:—**

1. *Gaming—Betting losses paid by cheque—Recovery—Civil Procedure Act, 1833 (3 & 4 Will. 4, c. 42), s. 3—Gaming Act, 1835 (5 & 6 Will. 4, c. 41), s. 2.*—An action for the recovery of money paid by cheque in respect of betting losses is not an action which must, by virtue of s. 3 of the Civil Procedure Act, 1833, be commenced within two years after the cause of such action.—*SHINMAN v. LYONS, K.B.D.*, 558.

2. *Reversionary interest in mixed fund—Mortgage of—Proceeds of sale of land—Present right to receive—Real Property Limitation Act, 1833 (3 & 4 Will. 4, c. 27), ss. 1, 5 and 34—Real Property Limitation Act, 1874 (37 & 38 Vict., c. 57), ss. 2 and 8.*—Time begins to run under the Statutes of Limitation against a mortgagee of a reversion from the date when the mortgagee becomes entitled to receive the mortgage money, and not from the date when the reversion subject to the mortgage falls into possession, and therefore such mortgage is barred under s. 8 of the Real Property Limitation Act, 1874, and the interest is extinguished under s. 34 of the Real Property Limitation Act, 1833, in twelve years.

*Re Owen* (1894, 3 Ch. 220) followed; *Hugill v. Williamson* (1888, 38 Ch. D. 480) distinguished.—*Re WITHAM, Sargant, J.*, 557.

3. *Simple contract debt—Loan—Acknowledgment—"No prospect of being able to pay capital at present"—Unconditional promise.*—In an action in which the defendant pleaded the Statute of Limitations, it was held that in the defendant's letters in which he used the expression, "It is not that I do not want to pay you, but that I cannot do so," there was a sufficient acknowledgment to prevent the statute from taking effect.—*SPENCER v. HEMMERDE, H.L.*, 692.

**LOCAL GOVERNMENT:—**

1. *Bye-Law—Prohibition of use of motor-cars in park—Reasonableness—Carriage way.*—Where a right of carriage way is not restricted in a deed to carriages impelled by a particular kind of traction, a "motor-car" is a carriage for the purpose of user of such right of way. A bye-law is not unreasonable because in the interests of public safety it *bona fide* prohibits the use of a public park by motor vehicles.

*Kruse v. Johnson* (1898, 2 Q.B. 91), applied.—*ATTORNEY-GENERAL v. HODGSON, Petersen, J.*, 538.

2. *Cesspools—Undertaking to cleanse—Notice from occupier—Non-compliance—Reasonable excuse—Liability—Public Health Act, 1875 (38 & 39 Vict., c. 55), ss. 42, 43.*—A local authority notified the occupier of a house in their district that they could only empty cesspools once every three months, and that, if they were requested to empty them more frequently, the cost must be paid by the occupier.

Held, that a reasonable fulfilment of the statutory obligation only required that the local authority should cleanse the cesspools in their district once in three months.—*LECK v. EPSOM D.C.*, *K.B.D.*, 439; 1922, 1 K.B. 383.

3. *Compulsory purchase of land by corporation—Special provisions in local Act for protection of vendors—Disputed compensation—Whether general statute repeals special Act—Blackpool Improvement Act, 1917 (7 & 8 Geo. 5, c. 52) s. 70—Acquisition of Land (Assessment of Compensation) Act, 1919 (9 & 10 Geo. 5, c. 57), s. 1 (1).*—The appellant corporation in 1917 obtained an Act to enable them (*inter alia*) to acquire land for the carrying out of improvement works. It incorporated some of the provisions of the Lands Clauses Acts, and contained special provisions as to the assessment of compensation which were inserted to protect the interests of vendors. The Acquisition of Land (Assessment of Compensation) Act, 1919, came into operation on the 1st September, 1919. On the previous 20th August the corporation had served a notice to treat on the respondents with reference to some land by the sea, which the corporation wished to acquire for extension of the esplanade. This notice stated that the compensation should be settled in the manner prescribed in the special Act. Before the matter proceeded further the corporation took steps to assess the price of the land under the Acquisition of Land

Act, 1919, the general effect of that Act being to diminish the amount of compensation payable on compulsory purchase.

Held, that a general statute should not be read as repealing the provisions of a special Act unless there was a clear indication of intent to repeal the special Act. Section 70 of the special Act contained a statutory contract including the method by which the respondents' land should be ascertained. There was no indication in the Act of 1919 read as a whole that a bargain already completed was not to stand, and the respondents were therefore entitled to be compensated for their land on the basis set out in the special Act.

Decision of the Court of Appeal (19 L.G.Rep. 9) affirmed.—BLACKPOOL CORPORATION v. STARR ESTATE CO., *H.L.* 17; 1922, 1 A.C. 27.

4. *County rate—Metropolitan borough council—Precepts of London County Council and of Metropolitan Asylums Board—Failure to pay—Remedy—Distress—Mandamus—London Government Act, 1899 (62 & 63 Vict., c. 14), s. 11—Metropolitan Poor Act, 1867 (30 & 31 Vict., c. 6), ss. 56, 58.*—A metropolitan borough council appealed against orders made by a Divisional Court, directing writs of *mandamus* to issue against the council, commanding it to pay large sums to the London County Council and the Metropolitan Asylums Board, under precepts made by those bodies. The appellants contended that the district was already too heavily rated and refused to make a further levy. They further said that an exclusive remedy (namely, by distress) was provided by statute for both breaches of duty complained of and that therefore the Divisional Court had no power to make an order granting the writs of *mandamus*.

Held, that the contention in the case of the demand by the London County Council failed on the face of the statute which created the obligation to pay, since s. 11 (2) of the London Government Act, 1899, was silent as to any remedy against the appellant council, and it was immaterial that they were overseers of every parish in the borough. The appeal in the case of the demand by the Asylums Board also failed.—*REX v. POPLAR BOROUGH COUNCIL*, *C.A.*, 2; 1922, 1 K.B. 72.

5. *Education authority—Children—Restrictions on employment—Prohibition—Report of school medical officer—Production before magistrates when information laid—Employment of Children Act, 1903 (3 Edw. 7, c. 45), ss. 5, 6, 8—Education Act, 1918 (8 & 9 Geo. 5, c. 39), s. 15 (1).*—On an information laid before justices on behalf of a local education authority in respect of non-compliance with a resolution, prohibiting the employment of a child under s. 15 (1) of the Education Act, 1918, the report required under that section as a condition precedent to the passing of the resolution must be produced to the justices at the hearing in order that they may satisfy themselves that this condition precedent has been fulfilled.—*MARGERISON v. HIND & Co.*, *K.B.D.*, 171; 1922, 1 K.B. 214.

6. *"House suitable for occupation by persons of the working classes"—"Fit for human habitation"—Repairs required by local authority—Execution of repairs by local authority on non-compliance by owner—Liability—Housing of the Working Classes Act, 1890 (53 & 54 Vict., c. 70), ss. 11, 75—Housing, Town Planning, &c., Act, 1909 (9 Edw. 7, c. 44), ss. 14, 15—Housing, Town Planning, &c., Act, 1919 (9 & 10 Geo. 5, c. 35), ss. 28, 39, 40.*—By s. 28 of the Housing, Town Planning, &c., Act, 1919, a local authority is empowered to require the owner of a house "suitable for occupation by persons of the working classes" to put it in such a state as to be fit for the occupation of persons of the working classes, and, if he fails to do so, to repair it himself and recover from him the cost occasioned thereby. There is no limitation as to the rental value of a house in s. 28, and the limitations as to rent, imposed by ss. 14 and 15 of the Housing, Town Planning, &c., Act, 1909, which sections relate to contracts for letting a house or part of a house, for habitation, cannot be imported into the former section.—*ARLIDGE v. TOTTENHAM URBAN DISTRICT COUNCIL*, *K.B.D.*, 694.

7. *Housing—House unfit for human habitation repaired by local authority—Demand for payment—Right of appeal—Housing, Town Planning, &c., Act, 1909 (9 Edw. 7, c. 44), s. 15 (6); Housing, Town Planning, &c., Act, 1919 (9 & 10 Geo. 5, c. 35), s. 28.*—The provisions of s. 28 (1) of the Housing, Town Planning, &c., Act, 1919, do not deprive a landlord of the right of appeal against a demand for payment made by a local authority, conferred upon him by s. 15 (6) of the Housing, Town Planning, &c., Act, 1909.—*REX v. MINISTER OF HEALTH*, *K.B.D.*, 299; 1922, 2 K.B. 28.

8. *Justices' clerk—Increase of salary—Right of appeal from decision of Standing Joint Committee—Criminal Justice Administration Act, 1914 (4 & 5 Geo. 5, c. 58), s. 34, s.s. (2), (3).*—A clerk to county justices applied for an increase of salary on the grounds of increase of work, increase of expenses, and the fall in the value of money. The standing joint committee of the county refused to grant the increase.

Held, that a proposal to vary within s. 34 of the Criminal Justice Administration Act, 1914, had come before the standing joint committee; that their decision was a decision within the section; and that there was a right of appeal to the Secretary of State.—*REX v. HOME SECRETARY*, *K.B.D.*, 285.

9. *Mandamus to borough council—Disobedience—Contempt of court—Writ of attachment directed to council—Service on some individual members only—Validity—Appearance—Waiver.*—A writ of *mandamus* having been issued against a London borough council for failure to perform its duties in the levying and collection of rates, a majority of the council resolved at a meeting to disobey it. A rule *nisi* was then obtained for the issue of a writ of attachment against the council, and was served upon some but not all the individual members who, however, were not named in the writ.

Held, that this procedure was irregular, but that as a number of the members had filed joint affidavits, defending their disobedience to the writ, and some of them had attended and addressed the court at the hearing of the rule, those members had waived the irregularity, and the writ of attachment would go for their committal if they still refused to obey. But a writ of attachment cannot be granted against a borough council or other corporate body without proof that every member of it is in contempt.—*REX v. POPLAR BOROUGH COUNCIL*, *C.A.*, 10; 1922, 1 K.B. 95.

10. *Notice to repair houses—Within twenty-one days—Jurisdiction of Magistrate—Reasonable period—Power of appeal—Housing of the Working Classes Act, 1890 (53 & 54 Vict., c. 70), ss. 35, 86; Housing, Town Planning, &c., Act, 1919 (9 & 10 Geo. 5, c. 35), s. 28.*—When a local authority gives notice that certain repairs are required to be done in respect of houses within s. 28 of the Housing, Town Planning, &c., Act, 1919, and the notices are not complied with, the magistrate is entitled, on application being made to him, to investigate the circumstances with a view to ascertaining the reasonableness of the time within which the local authority requires the work to be completed.

The power of appeal to Quarter Sessions provided for by s. 35 of the Housing of the Working Classes Act, 1890, in respect of orders given by a local authority does not extend to notices given by a local authority.—*RYALL v. CUBITT HEATH*, *K.B.D.*, 142; 1922, 1 K.B. 275.

11. *Plans of building—Narrow streets—"Ample, safe and convenient means of ingress and egress"—Public Health Act, 1875 (38 & 39 Vict., c. 55), s. 158—Public Health Act Amendment Act, 1890 (53 & 54 Vict., c. 59), s. 36.*—A rule *nisi* was obtained by a company calling upon a local authority to show cause why they should not approve of plans for the erection of a cinematograph theatre having means of ingress and egress on three streets, one of which was narrow and liable to be congested.

Held, that the rule should be made absolute as having regard to the fact that there were means of egress into other streets, it did not appear that there was reasonable ground for believing that there would be an infringement of s. 36 of the Public Health Act, 1875, owing to the narrowness and possible congestion of one of the streets in question.—*REX v. CAMBRIDGE CORP.*, *K.B.D.*, 125; 1922, 1 K.B. 250.

12. *Police—Suspension of constable—Regulations for discipline—Implied repeal of statute—Municipal Corporations Act, 1882, s. 191 (4)—Police Act, 1919, s. 4.*—A police constable was suspended by the watch committee of his borough, under the provisions of s. 191 (4) of the Municipal Corporations Act, 1882. He brought an action against the committee, contending that the statutory regulations for the discipline and governance of the police, made under s. 4 of the Police Act, 1919, had impliedly repealed s. 191 (4), and that the committee could only take action against him under the provisions of those regulations. He also claimed that in any event he was entitled to his pay during the period of suspension.

Held, that s. 191 (4) was not repealed by the Act of 1919 or the regulations made in pursuance of it. An Act did not impliedly repeal an earlier statute upon the same subject-matter unless the wording of one was inconsistent with or repugnant to the latter: *Flannagan v. Shaw* (64 SOL. J. 51; 1920, 3 K.B. 96).

Held, further, that the right to receive pay ceased with the suspension.—*WALLWORK v. FIELDING*, *C.A.*, 366.

13. *Private street works—Provisional apportionment—Premises which do not abut on the street—"Access to which is obtained through a passage . . ."—Private Street Works Act, 1892 (55 & 56 Vict., c. 57), ss. 6, 10.*—By s. 10 of the Private Street Works Act, 1892, an urban authority which is about to execute private street works may, "if they think just," include in a provisional apportionment of the expenses in connection with the works "any premises which do not front, adjoin or

about on the street or part of a street, but access to which is obtained from the street through a court, passage, or otherwise, and which will in their opinion be benefited by the works . . ."

A lane, leading from a public highway in front of a terrace situate at M, passed along one side of the terrace, and, continuing behind the terrace, eventually returned along the other side of the terrace into the public highway. In the course of passing behind the terrace the land crossed, at right angles, a road which led from the public highway to the back of the terrace and which the urban authority proposed to make good in accordance with the Private Street Works Act, 1892.

Held, that the lane was not a "passage" within the meaning of the word in s. 10 of that statute.

Held, also, that, in framing a resolution under s. 6 (3) of the Act approving (*inter alia*) the provisional apportionment, it would be more in conformity with the provisions of the Act that the resolution should state expressly that the council "think it just to include" the houses mentioned in the provisional apportionment.—*OAKLEY v. MERTHYR TYDFIL CORP.*, K.B.D., 218; 1922, 1 K.B. 409.

14. *Public health—Privies—Substitution of water-closets—Privies "not sufficient"—Notice requiring substitution—Powers of local authority—General scheme of conversion—Discretion—Incidence of expense—Public Health Act, 1875 (38 & 39 Vict., c. 55), ss. 35, 36.—Public Health Acts Amendment Act, 1907 (7 Educ. 7, c. 53), s. 39.—Under the Public Health Act, 1875, s. 36, if a house within the district of a local authority is reported by its surveyor or inspector of nuisances to be without a sufficient water-closet, earth-closet or privy and an ashpit, the authority is to give notice to the owner or occupier requiring him within a reasonable time specified to provide a sufficient water-closet, earth-closet or privy and an ashpit, or either of them, as the case may require, failing compliance with which the authority may do the work specified in the notice, and recover from the owner the expenses incurred. A local authority having served notices upon the owners of four houses fitted with privies which had been reported by their inspector to be defective and not sufficient, requiring them to convert the privies into water-closets.*

Held, that the notices were valid, and had been given after a *bona fide* consideration of all the circumstances of the case, which showed that another kind of convenience was necessary; that the section was unaffected by s. 39, s.s. (4), of the Public Health Acts Amendment Act, 1907, authorising the adoption of a general scheme of conversion of privies into water-closets at the joint expense of the owners and the local authority; and that the defendant council had not acted with the motive of improperly obtaining a general conversion at the sole expense of the owners, but had exercised a proper discretion.

*St. Luke's, Middlesex, Vestry v. Lewis* (1 B. & S. 865), and *Nicholl v. Epping Urban District Council* (1899, 1 Ch. 844), approved and followed. Decision of P. O. Lawrence, J. (1922, 1 Ch. 521) affirmed.—*CARLTON MAIN COLLIERY v. HEMSWORTH D.C.*, C.A., 665; 1922, 1 Ch. 521.

15. *Shop assistant—Weekly half holiday—Assistant employed at two places of business belonging to the same employer—Employment in afternoon—Shops Act, 1912 (2 Geo. 5, c. 3), s. (1) l.—An employer who carried on business at two shops, employed one of the assistants attached to shop A to dress the window of shop B on one of her weekly half holidays.*

Held, that this was employment about the business of shop A and consequently an infringement of s. 1 (1) of the Shops Act, 1912.—*LONDON COUNTY COUNCIL v. WETTMAN*, K.B.D., 19; 1922, 1 K.B. 153.

16. *Stage carriage—"Plies for hire"—Char-a-banc—Metropolitan Public Carriage Act, 1869 (32 & 33 Vict., c. 115), s. 7.—A company, which carried on the business of organizing tours to various parts of the country, contracted with certain passengers to convey them for a specified tour, and arranged for them to be taken up at a place within the Metropolitan Police district. The company then hired a char-a-banc which, on the date of the tour, proceeded to the place in question to take up the passengers. The driver was not authorised to take up any passengers who did not present tickets to him.*

Held, that the char-a-banc was not plying for hire within the meaning of s. 7 of the Metropolitan Public Carriage Act, 1869.—*SALES v. LAKE*, K.B.D., 453; 1922, 1 K.B. 553.

See also Highway, Housing, Shop.

#### LUNACY :—

*Pauper lunatic—Separation deed—Covenant by husband to pay weekly sum—Subsequent lunacy of wife—Liability of husband to pay increased weekly sum for maintenance in asylum—Poor Law Amendment Act, 1850 (13 & 14 Vict., c. 101), s. 5.—A husband covenanted with his wife in a deed of separation to pay to her a weekly sum of 17s. 6d. during her life, so long as*

she should continue to lead a chaste life, and the wife covenanted to indemnify him against debts and liabilities incurred by him on her behalf. She was subsequently removed to a lunatic asylum, where the weekly cost to the guardians in respect of her maintenance was £1 16s. She was without means, with the exception of the above-mentioned weekly sum of 17s. 6d.

Held, that the rights of the guardians were not limited to the terms of the separation deed, and that the husband was liable to pay £1 16s. weekly while she continued a lunatic in the asylum.—*LLEWELLYN v. TURNER*, K.B.D., 284.

#### MARSHALLING :—

*Special fund for payment of debts, testamentary expenses and duties—Marshalling in favour of liabilities not payable out of residue—Fund insufficient.—Where a testator by his will has created two sets of funds, a special fund and a residuary fund, and there is no indication that two sets of liabilities which were to be discharged out of the special fund were to be discharged otherwise than concurrently and *pari passu*, the claim of the specific legatees to marshal as against the residuary legatees on an insufficiency in the special fund, was disallowed.—*RE TOWNLEY*, Sargent, J., 157; 1922, 1 Ch. 154.*

#### MASTER AND SERVANT :—

*Mistake of servant—Scope of employment—Liability of employer—Damages for false imprisonment.—The appellant tendered a marked or indented penny in payment of his fare on a tramway car. The conductor refused to accept it and the appellant, refusing to substitute another, was taken to the police station, where he was detained for about ten minutes. The appellant thereupon brought an action for false imprisonment against the owners of the car.*

Held, that the servants of the corporation were acting within the scope of their employment and therefore the pursuer had a right to have the issue of fact tried out.—*PERCY v. GLASGOW CORPORATION*, H.L., 555.

See also Corn Production.

#### MISTAKE :—

*Bank—Money paid into customer's account by third party by mistake—Recovery in absence of customer.—Where a person makes a payment to a bank on behalf of a customer and the customer is informed of it, and the person making the payment subsequently shows that it was made in mistake of fact, the person making the payment can recover it from the bank without the customer being a party to the proceedings.*

*Cary v. Webster* (1721, 1 Strange, 480) applied.

The position of a bank is not different from that of any other agent.

*Kerrison v. Glyn Mills, Currie & Co.* (1911, 81 L.J., K.B. 465).—*ADMIRALTY COMMISSIONERS v. NATIONAL PROVINCIAL BANK*, Sargent, J., 422.

See also Principal and Agent, Settlement, Vendor and Purchaser.

#### MORTGAGE :—

1. *Emergency legislation—Dwelling-house "let as a separate dwelling"—Mortgagor in occupation—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), ss. 7-12, s.s. (2).—Letting is not a necessary condition for premises to be protected by the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.*

The words "let as a separate dwelling" in s. 12 (2) of the said Act only qualify the words "part of a house," and do not qualify the word "house" where the Act is made to apply to "a house or part of a house let as a separate dwelling."

Although *prima facie* similar words in the Act of 1915 were not applicable only to part of a dwelling-house, yet the Act of 1920 is an amending as well as a consolidating Act, and those ambiguous words in the earlier Act were removed. Moreover, the title of the Act shows that it was intended to protect mortgagors as well as tenants.

*Rider v. Rollett* (1920, W.N. 227).—*WOODEFIELD v. BOND*, Sargent, J., 14.

2. *Emergency legislation—Increase of mortgage interest—Repeal of earlier statute—Increase of Rent and Mortgage Interest (War Restriction) Act, 1915 (5 & 6 Geo. 5, c. 97), s. 1 (1), (5)—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), ss. 1, 4, 7, 12 (1) (b), 19.—The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, applies to increases validly made before the 25th March, 1920, and which were recoverable up to the passing of that Act, even though they were in fact made after the passing of the 1915 Act, although exempted from the operation of that Act by s. 1 (1), (5) thereof.*

Principle laid down in *Sinclair v. Powell* (1921, W.N. 206), extended to cover these cases.—*HOLLANDS v. COOPER*, *Astbury, J.*, 10.

3. *Reversionary mortgage at compound interest—Annual rests—Redemption—Deduction of income tax from sum payable—“Interest of money”*—*Income Tax Act, 1918* (8 & 9 Geo. 5, c. 40), *Schedule D, Class III. R.R.I.*, 19, 21.—The next of kin of a lunatic, who had not made any will, mortgaged their expectancies in her estate in consideration of an immediate advance, the mortgage to be redeemable after the lunatic's death, on payment of a sum of money, together with compound interest thereon at  $4\frac{1}{2}$  per cent. per annum, calculated with yearly rests as from the date of the lunatic's death.

Held, in the administration of the lunatic's estate, that the sum representing such interest had not been capitalised for all purposes, but still remained “interest of money” within the *Income Tax Act, 1918, Schedule D*, and therefore that the mortgagors were entitled to deduct the income tax payable thereon before payment to the mortgagees.—*Re MORRIS, C.A.*, 18; 1922, 1 Ch. 126.

4. *Sale out of court by order of the court—Consent of mortgagee—Interest—R.S.C. Ord. 51, r. 1A.*—There is no reason for differentiating the practice on a sale out of court with the mortgagee's consent and a sale under the court with the same consent, and accordingly on a sale out of court the same practice will be followed as was laid down by Sir John Romilly, *M.R.*, in *Day v. Day* (1862, 31 Beav. 270). A proviso for twelve months' notice contained in the deed can be waived by the mortgagee's consenting to the sale.—*Re FOWLER, Sargant, J.*, 595.

5. *War restriction on sale—“Proper state of repair”—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920* (10 & 11 Geo. 5, c. 17), s. 7.—The “proper state of repair” in which a mortgagor has to keep his property in order to obtain the benefit of s. 7 of the *Increase of Rent and Mortgage Interest (Restrictions) Act, 1920*, must be measured by the general condition of the property at the date of the mortgage, and must not be extended beyond the preservation of the property in that state.

Any general, doubtful or ill-defined terms in a statute must be considered and interpreted in such a manner as will best accord with the main object of the statute and the mischief sought to be remedied thereby.

*Hawkins v. Gathercole* (1855, 6 D.M. & G. 1) followed.—*WORDFIELD v. BOND, Sargant, J.*, 406; 1922, 2 Ch. 40.

See also *Limitations, Statute of*.

#### NEGLIGENCE:—

*Damages—Loss of life at sea—Widow drawing naval pension—Assessment of compensation—Whether pension to be considered—Fatal Accidents Act, 1846* (9 & 10 Vict., c. 93), s. 2.—*Marine Pay and Pensions Act, 1865* (28 & 29 Vict., c. 73), s. 3.—The plaintiff's husband, who was a chief petty officer in a warship, was drowned as the result of a collision between his ship and the defendants' vessel. The collision was due to the negligence of the defendants. The plaintiff, the widow, had been granted a pension under rules made in accordance with s. 3 of the *Marine Pay and Pensions Act, 1865*.

Held, in an action under Lord Campbell's Act, that as a matter of law the existence of the pensions ought to be taken into consideration in assessing the damages payable to the plaintiff and her infant children under that Act, because, notwithstanding that their continuance was dependent on the bounty of the Crown, there was a reasonable expectation that they would be continued. But since, in practice, the amount of the pensions would, it must be assumed, be reduced in proportion to the compensation, the amount must stand.

Decision of Greer, *J.*, affirmed on different grounds.—*BAKER v. DALGLEISH, C.A.*, 318; 1922, 1 K.B. 361.

#### NUISANCE:—

*Poultry farm—Cock-crowing—Previous action for similar relief—Compromise—Estoppel.*—In an action for an injunction to restrain a nuisance caused by a poultry farm and cock-crowing, the defendants pleaded a previous action against them by the plaintiff's predecessor in title which was compromised and stayed.

Held, that there was no privity of estate and that the action could be maintained.

Held, also, on the facts, that there was no actionable nuisance.—*HUNT v. COOK, Eve, J.*, 557.

#### PATENT:—

1. *Application—Report of examiner—No invention—Refusal to accept by Comptroller-General—Jurisdiction—Statute of Monopolies* (21 Jac. 1, c. 3), s. 6.—*Patents and Designs Act,*

1907 (7 Edw. 7, c. 29), ss. 1, 3, 93.—The Comptroller-General is not acting outside his jurisdiction in basing his refusal to accept an application for a patent on the report of an examiner that the subject-matter of the application was not an invention at all. In the event of complaint against the decision of the Comptroller-General, the remedy is by an appeal to the law officer and not by *mandamus*.—*REX v. COMPTROLLER OF PATENTS, K.B.D.*, 558.

2. *Extension—Loss resulting from war—Patented article not manufactured in United Kingdom—Patents and Designs Act, 1907* (7 Edw. 7, c. 29), s. 18.—*Patents and Designs Act, 1919* (9 & 10 Geo. 5, c. 80), s. 7.—Where a patented article has never been manufactured in England because such manufacture could not be carried on in England with commercial success, an extension of time will nevertheless be granted by reason of war loss proved under the *Patents and Designs Act, 1919*, s. 7.—*Re SOCIÉTÉ CHIMIQUE DES USINES' PATENT, Sargant, J.*, 217; 1922, 1 Ch. 258.

3. *Extension—War losses—Assignment of patent—Application by original patentee and assignees—Patents and Designs Act, 1907* (7 Edw. 7, c. 29), s. 18.—*Patents and Designs Act, 1919* (9 & 10 Geo. 5, c. 80), s. 7 (3).—The effect of s. 7 (3) of the *Patents and Designs Act, 1919*, is to insert in s. 18 of the *Patents and Designs Act, 1907*, a proviso and a qualification, and accordingly the word *patentee* in s-s. (6), which is the sub-section so inserted, means the same thing as the word “*patentee*” means in s-s. (5), that is to say, the existing patentee and his predecessors in title and not the patentee at the time the application for the patent was made.

In *Re Brown's Patent* (1920, W.N. 158) applied.—*Re SUMMERS BROWN'S PATENT, Sargant, J.*, 710.

4. *Revocation—Publication in—Earlier British patent—Earlier American patent subsequently patented in United Kingdom—Patents and Designs Act, 1907* (7 Edw. 7, c. 29), ss. 11 and 26.—*Patents and Designs Act, 1919* (9 & 10 Geo. 5, c. 80), s. 4.—An application to revoke a patent under s. 26 of the *Patents and Designs Act, 1907*, can still only be made on grounds on which the grant of the patent might have been opposed.

Accordingly a patent granted in 1916 cannot be revoked on the ground that the invention had been (1) published in the specifications of prior British patents, because that was a ground for application for revocation only introduced by s. 4 of the *Patents and Designs Act, 1919*, or (2) claimed in the specification of a British patent of 1920, because that was not in existence at the time of the grant to the patentee in 1916.

The extension of the time within which an invention patented in the United States of America can be patented in this country does not enable the British patent, if obtained after the date of the patent it is sought to revoke, to be used as a ground of revocation.—*Re UCAR'S PATENT, Sargant, J.*, 488.

5. *Subject-matter—Insufficiency of specification—Ambit of claim—Infringement—Validity of patent.*—In an action for infringement of the “half-watt” lamp, the defendants disputed the validity of the patent on the ground of want of subject-matter and of vagueness of specification. The Court of Appeal held that there was good subject-matter but that the specification was insufficient. The plaintiffs appealed to the House of Lords.

Held, allowing the appeal, that there was ample subject-matter, and that there was no vagueness or ambiguity in the specification.—*BRITISH THOMSON-HOUSTON CO. v. CORONA LAMP WORKS, H.L.*, 182.

See also *Bankruptcy*.

#### PEERAGE:—

*Peeress in her own right—Claim to sit in Upper Chamber—Petition for writ of summons—Sex Disqualification (Removal) Act, 1919* (9 & 10 Geo. 5, c. 71), s. 1.—The Committee for privileges of the House of Lords reported against a petition by a peeress in her own right for the issue to her of a writ of summons to sit in the Upper Chamber of Parliament. On the construction of the *Sex Disqualification (Removal) Act, 1919*, alone, there was no difficulty in reporting against the petition.—*RE LADY RHONDDA, H.L.*, 630.

#### PETITION OF RIGHT:—

*Power to amend—Contract—Duration of the war—Date of termination of the war—Petition of Right Act, 1860* (23 & 24 Vict., c. 34), s. 7.—*Termination of the Present War (Definition) Act, 1918* (8 & 9 Geo. 5, c. 58), s. 1 (1).—The court has power to amend a petition of right on the application of a subject, provided the provisions of ss. 1 and 2 of the *Petition of Right Act, 1860*, are not defeated by the amendment.

The War Office entered into a contract with an aviation company for the duration of the war.

Held, that the date of the termination of the war was, for the purposes of the contract in question, 14th December, 1918, i.e., the date on which the armistice was renewed.—*RUFFY ARNELL AVIATION CO. v. THE KING, K.B.D.*, 270; 1922, 1 K.B., 599.

POWER :—See Appointment.

#### PRACTICE :—

1. *Academic question—Refusal to decide—Function of court—Revenue—Duties on mechanically propelled vehicles—Licence—Motor lorry used to convey passengers—Hackney carriage—Roads Act, 1920 (10 & 11 Geo. 5, c. 72), s. 8 (3).*—While an appeal was pending in certain proceedings, a decision was given in another case (*Rex v. Wood; ex parte Anderson*, 66 Sol. J. 453), which was admittedly fatal to the substantial contention of the appellants. Both parties, were, however, for the guidance of the Ministry of Transport, desirous of obtaining the decision of the court upon a further question, which under the circumstances had become purely academical in the present proceedings.

Held, that, as the appeal failed on the substantial point, the court must refuse to determine the academic question, as such a decision, if given, would be merely *obiter dictum* and, not being binding on other courts, was likely to lead to embarrassment.—*TINDALL v. WRIGHT, K.B.D.*, 524.

2. *Jury—Allegation of fraud—Transfer from Chancery to King's Bench Division—Discretion—Juries Act, 1918, s. 1.*—Section 1 of the Juries Act, 1918, means that where there is an existing power to direct trial by jury, then trial by jury is not to take place, except in the cases therein specified, and Clause (b) thereof is confined to cases in which, apart from the Act, it would be in the power of the court in which an action is commenced to direct trial by jury, and accordingly the section must not be used to obtain the transfer of an action from the Chancery Division to the King's Bench Division on the ground that allegations of fraud are made therein.—*Baring Bros. & Co. v. North Western of Uruguay Railway Co.* (1893, 2 Q.B. 406).

The Act is "an Act to limit the right to a jury in certain cases, and must not be used to extend the right to civil cases commenced in the Chancery Division where the right to a jury never existed before."

*Sage v. Eicholz* (1919, 2 K.B. 171).—*INTERNATIONAL PRODUCERS, LTD. v. FORBES, Peterson, J.*, 333.

3. *Service of writ out of jurisdiction—"Forum Conveniens"—R.S.C., Ord. XI, rr. 1 (e), 2A.*—Where a contract dealing with a certain mineral right in Ecuador was signed by the parties thereto in New York City, U.S.A., but expressly provided that it should be considered and held to become duly made and executed in London, England.

Held, (1) That such a contract was not "made within the jurisdiction" within Order XI, r. 1 (e), but was "by its terms or by implication to be governed by English Law"; (2) That an order giving leave to serve a writ in an action for rescission of such a contract is right both on technical grounds and also on the ground of convenience, and will not be set aside.

*Penn v. Lord Baltimore* (1750, 1 Ves. Sen. 444) applied.—*BRITISH CONTROLLED OILFIELDS, LTD. v. STAGG, Sargant, J.*, 18.

4. *Trial by jury—Verdict—Pronouncement by foreman—Irrregularity—Foreman's answers not heard by some of the jurors—Verdict challenged—Evidence—Admissibility—Secrecy of jury's deliberations while considering their verdict—New trial—Impropriety of publication of reasons.*—It has been a well-accepted rule of law for generations, and it has been generally accepted by the public and by the press, that what passes in the jury-room during the deliberations among the members of the jury in arriving at their verdict should be treated as private and confidential, and the court will never admit, either for the purpose of questioning, or for that of supporting a verdict, any evidence from any jurymen or jurymen with regard to any discussion which may have taken place among the jurymen while considering their verdict, or of the reasons for their verdict, whether such discussion took place in the jury-room or in the jury-box itself. But where a verdict as recorded is challenged on the ground that it is not the verdict of the jury as a whole, evidence may be admitted of some irregularity which may have happened after the jury have returned into court. The foreman's answers to the Associate must be given in the presence and in the hearing of all the jurymen, and where this has not been done and the verdict is challenged in consequence, a new trial may be ordered.—*ELLIS v. DEHEER, C.A.*, 537; 1922, 2 K.B., 113.

See also Appeal.

#### PRINCIPAL AND AGENT :—

1. *Instructions to sell motor car on certain terms—Animus Furandi—Possession obtained by fraud—Fraudulent disposal—Innocent purchaser—Larceny by trick—Factors Act, 1889 (52 & 53 Vict., c. 45), s. 2.*—A mercantile agent by means of a trick obtained a car from its owner with instructions to sell it under certain conditions. He sold the car, disregarding the conditions, and misappropriated the proceeds of sale. The car was afterwards resold by the purchaser.

Held, in an action by the plaintiff against a subsequent innocent purchaser, that, as the agent had obtained possession of the car by fraud, intending from the outset to make use of it for his own purposes, and could therefore pass no title to a purchaser, there must be judgment for the plaintiff for the return of the car or its value.

Observations of Moulton, L.J., in *Oppenheimer v. Frazer and Wyatt* (1907, 2 K.B. 50) considered and applied.—*FOLKES v. KING, K.B.D.*, 613.

2. *War—Control of exports by Russian Government—Sale of timber exported from Russia in England—Proceeds paid to London bankers as agents of Russian Government—Soviet revolution in Russia—Owners of timber not paid in Russia—Claim to recover funds in hands of London bankers—Payment under mistake of fact.*—The plaintiffs were licensed by the Russian Government to export timber to England, on the terms that the proceeds should be paid to that government's London bankers in sterling, the plaintiffs to be repaid in Petrograd in roubles. At the outbreak of the Soviet revolution, the bankers had £35,000 so paid in in their hands, of which one sum of £20,000 had been paid in on 9th November, 1917, two days after the revolution had broken out, and in ignorance of it. The plaintiffs had not been reimbursed.

Held, that the plaintiffs could not recover the money on the ground that the Russian Government were merely agents to transmit it to them, for the money in sterling was the property of the Russian Government, subject to the liability to reimburse the plaintiffs. Nor could they recover on the ground that the money was paid for a consideration which had failed, because the consideration was not the reimbursement in roubles but the licence to export.

Held, further, that the £20,000 could not be recovered as paid under a mistake of fact, because it had been paid in in pursuance of a liability, and on 9th November the Russian Government, though attacked, had not come so completely to an end as to release the plaintiffs from that liability.—*STEAM SAW MILLS CO., LTD. v. BARING BROTHERS & CO., C.A.*, 170; 1922, 1 Ch. 244.

#### PRINCIPAL AND SURETY :—

*Securities to administration bond—Action by sureties against principal—Duties paid—No accrued liability of sureties—Costs of action.*—A surety is not entitled to come to the court to obtain relief against his principal debtor by way of indemnity unless there is an accrued liability on the surety which can be enforced by the court. A mere contingent liability is not enough to justify an action.—*Re LEDGARD, Eve, J.*, 405.

#### PROBATE :—

*Colonial probate—Grant to corporation—Resealing—Colonial Probates Act, 1892 (55 Vict., c. 6), s. 2—Administration of Justice Act, 1920 (10 & 11 Geo. 5, c. 81), s. 17.*—The law does not now object to corporation-executors *per se*, and probate granted to a corporation in an overseas-Dominion may be resealed here, notwithstanding that the corporation has not its principal place of business in the United Kingdom, so as to be entitled to a grant under the Administration of Justice Act, 1920.—*IN THE ESTATE OF McLAUGHLIN, P.D.*, 578.

#### PUBLIC AUTHORITY :—

*Water Board—Statutory duty—Use of motor lorry to convey pipes and stores—Return journey with empties—"Act done in pursuance or execution or intended execution of any Act of Parliament or of any public duty or authority"—Action for negligence—Limitation of time—Metropolitan Water Act, 1902 (2 Edw. 7, c. 41), s. 1—Public Authorities Protection Act, 1893 (56 & 57 Vict., c. 61), s. 1.*—By s. 1 of the Public Authorities Protection Act, 1893, where any action is commenced against any person for "any act done in pursuance or execution or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty or authority . . . the action . . . shall not lie . . . unless it is commenced within six months next after the act, neglect, or default complained of . . ." The defendants, the Metropolitan Water Board, were under a statutory duty under the Metropolitan Water Act, 1902, to supply water within their area which was 550 square miles

in extent in and around the Metropolis and to maintain the pipes necessary to convey that water in a proper state for that purpose. The Water Board had a number of depots in their district and stores and materials for repairing, extending and maintaining their main water pipes had to be supplied to and kept at those storage depots. Motor lorries were used by the board for the conveyance of stores and materials to the depots and to bring back empty casks and other receptacles in which the stores had been carried to the depots. On 17th September, 1919, the defendants sent a motor lorry laden with pipes from their depot at Battersea to their depot at Lea Bridge. After discharging the pipes there, certain empties were put on the lorry to be conveyed back to Battersea. On the return journey, laden with empties, the motor lorry ran into and injured the plaintiff, who on 7th June, 1920, commenced an action to recover damages for the injury.

Held (Younger, L.J., dissenting), that the use of the defendants' motor lorry on the day in question was "an act done in pursuance or execution or intended execution of" their statutory duty or authority, and that as the action was not commenced within six months the defendants were protected by s. 1 of the Public Authorities Protection Act, 1893.

Decision of Lush, J. (19 L.G.R. 566) affirmed.—EDWARDS v. METROPOLITAN WATER BOARD, C.A., 195; 1922, 1 K.B. 291.

#### PUBLIC HEALTH:—

*Local authority—By-law relating to slaughter-houses—Stunning of pigs—Reasonableness of by-law—Public Health Act, 1875 (38 & 39 Vict., c. 55), s. 169.*—A by-law was passed by a local authority directing that "A person shall not in any slaughter-house proceed to slaughter any animal until the same shall have been effectually stunned, and such stunning shall be effected with a mechanically-operated instrument suitable and sufficient for the purpose: Provided that this by-law shall not be deemed to apply to any member of the Jewish faith, duly licensed by the Chief Rabbi as a slaughterer, when engaged in the slaughtering of cattle intended for the food of Jews, according to the Jewish method of slaughtering, if no unnecessary suffering is inflicted."

Held, that, having regard to the principles laid down by Lord Russell, C.J., in *Kruse v. Johnson* (1898, 2 Q.B. 91), the by-law was not unreasonable and invalid.—DODD v. VENNOR, K.B.D., 612.

See also Local Government.

#### RAILWAY:—

*Carriage of goods—Consignment note—At owners' risk—Mistake of company's servant—Misconveyance—Delay—Damages.*—The appellant company contracted to convey the goods of the respondent to a certain place by a named route, the respondent agreeing to relieve the company from all liability for misdelivery or delay during the transit not caused by wilful misconduct. Owing to a mistake on the part of the company's servants the goods were sent by a different route, causing delay and damage to the respondent.

Held, that the loss did not arise during the transit by the agreed route, and, therefore, the company was not relieved from liability.—FOSTER v. GREAT WESTERN RAILWAY (1904, 2 K.B. 306), overruled.—LONDON & NORTH WESTERN RAILWAY v. NEILSON, H.L. 502.

See also Carrier, Revenue.

#### RATING:—

1. *Assessment—Rateable value—Tied beerhouse—Premium on assignment—Statutory restriction on increase of rent—Standard rent—Valuation Metropolis Act, 1869 (32 & 33 Vict., c. 67), ss. 4, 20—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 & 11 Geo. 5, c. 17), s. 2.*—In arriving at the valuation under the Valuation (Metropolis) Act, 1869, the provisions of the Increase of Rent and Mortgage Interest Act, 1920, need not be taken into account, and do not fix the rateable value of the hereditaments to which the Act applies.

Decision of the Court of Appeal (1922, 1 K.B. 25; 65 Sol. J. 780), reversed.—POPULAR ASSESSMENT COMMITTEE v. ROBERTS, H.L., 386.

2. *Assessment—Valuation—Supplemental list before re-valuation completed—Objection on ground of unfair valuation.*—A poor rate was made in conformity with a valuation list, as amended by a supplemental valuation list, in which, out of 454 licensed premises, 127 were assessed on the basis of a re-valuation, while the remaining 327 were assessed on their existing valuation, owing to their re-valuation not having been completed by the date when the rate was made.

Held, that the rate was based upon an assessment which was unequal and unfair, and that the occupier of one of the 127

premises was entitled to be repaid a sum of money in respect of excess paid by him under the assessment.—DOUBLE v. SOUTHAMPTON ASSESSMENT COMMITTEE, K.B.D., 473.

3. *Assessment—Valuation list—Supplemental valuation list—Objection on ground of unfairness of valuation—Union Assessment Act, 1862 (25 & 26 Vict., c. 103), ss. 14, 18, 25, 26.*—An Assessment Committee, pursuant to the provisions of the Union Assessment Committee Act, 1862, made a supplemental valuation list in respect of all rateable properties in the valuation list then in force. The supplemental valuation was arrived at by the addition of £25 per cent. to the gross and net assessments of the properties. An appeal having been made to the Court of Quarter Sessions on the ground that the valuation was unfair and unequal, the court found that no individual valuation had been made of the hereditaments concerned for the purpose of the supplemental valuation list, and that the effect of the increase of value was to make the list unfair and unequal.

Held, that the decision of the Court of Quarter Sessions was right.—STIRK & SONS v. HALIFAX ASSESSMENT COMMITTEE, K.B.D. 236; 1922, 1 K.B. 264.

4. *Tithe rent charge—Abatement—United benefices—Mode of assessment—Pluralities Act, 1838 (1 & 2 Vict., c. 106), s. 16—Tithe Rent Charge (Rates) Act, 1899 (62 & 63 Vict., c. 17), s. 2 (b)—Ecclesiastical Tithe Rent Charge (Rates) Act, 1920 (10 & 11 Geo. 5, c. 22) s. 1 (1).*—Where two benefices in different parishes are united under s. 16 of the Pluralities Act, 1838, "for ecclesiastical purposes only," they continue to be distinct in respect of assessment for rating purposes. A "united benefice" does not come within the terms of the statutory definition of the word "benefice."—KEANE v. ASHBOCKING OVERSEERS, K.B.D., 92; 1922, 1 K.B. 143.

#### REVENUE:—

1. *Deed securing annuity free of income tax—Contravention of Income Tax Acts—Rectification—Jurisdiction.*—The Chancery Division of the High Court can order rectification of a deed made in pursuance of an order of the Divorce Division if such rectification is incidental to the other relief asked for in the action. A deed which contravenes the prohibitions of the Income Tax Acts is a prohibited agreement within the decision in *Blount v. Blount* (1916, 1 K.B. 230) and not a permissible agreement within the decision in *Brooke v. Price* (1917, A.C. 115).

Rectification of such a deed will be granted to carry out the order of the Court under which it is alleged to be made, even though it were settled by conveyancing counsel and made over twelve years ago, and even though the mistake were a mistake of law: *Stone v. Godfrey* (5 De G.M. & G. 76).—BURROUGHS v. ABBOT, Lawrence, J., 141; 1922, 1 Ch. 96.

2. *Entertainments duty—County cricket club—Subscribing members—Liability—Finance (New Duties) Act, 1916 (6 Geo. 5, c. 11), s. 1.*—Certain cricket matches were played on a county cricket club ground. The public were admitted to the ground to watch the matches on payment of a sum which included entertainments duty.

Held, that, as part of the subscription of each member of the club was paid for the right to watch cricket matches on the club ground, the Inland Revenue Commissioners were authorised, under the Finance (New Duties) Act, 1916, to claim entertainments duty in respect of that right.—ATTORNEY-GENERAL v. SWAN, K.B.D., 317; 1922, 1 K.B. 682.

3. *Estate duty—Annuity charged on settled estates—Benefit accruing on death of annuitant—Exemption—Meaning of "money or money's worth"—Finance Act, 1894 (57 & 58 Vict., c. 30), ss. 1, 2 (1), (b), 3.—Finance Act, 1896 (59 & 60 Vict., c. 28), s. 15.*—By the will of the seventh Earl of Sandwich, who died in 1884, and by a subsequent settlement, family estates in Huntingdonshire and Limerick were settled upon the eighth Earl and his brother Admiral Montagu, who were each empowered to appoint to any wife a jointure of £2,000, charged on the Huntingdon estates. The admiral, in 1906, by will appointed a jointure of £2,000 to his wife Lady Agneta Montagu. In 1910, the eighth Earl, who died a bachelor, the admiral, and the admiral's son, the present defendant, negotiated with a view to putting the defendant into immediate possession of the estates, and a disentailing assurance was executed on 8th December, 1910, by which the eighth Earl and the admiral released the power of jointuring and surrendered their life interests, the ultimate use of the estates, freed from all estates tail, being for the defendant absolutely. On 12th December, 1910, the defendant executed a deed (referred to as the annuity deed) by which he granted to his mother, Lady Agneta, a rent charge of £2,000 per annum for her life on the Limerick estates—subsequently transferred by deed to the Huntingdon estates. The admiral died in 1915, the eighth Earl in 1916 and

**Lady Agneta in 1919.** The Crown claimed estate duty by reason of the benefit accruing through the cesser of the annuity at her death, as being within the words of s. 2 (1), (b) of the Finance Act, 1894. "Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest . . ." The defendant contended that he was exempt from such duty under the terms of s. 3 (1) of the same Act:—"Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bona fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit . . ." Alternatively, under the exemption contained in s. 15 (1) of the Finance Act, 1896:—"Where by a disposition of any property an interest is conferred on any person other than the donor for the life of such person or determinable on his death, and such person enters into possession of the interest and thenceforward retains possession thereof to the entire exclusion of the donor or of any benefit to him by contract or otherwise, and the only benefit which the donor retains in the said property is subject to such life or determinable interest, and no other interest is created by the said disposition, then, on the death of such person after the commencement of this part of this Act, the property shall not be deemed for the purpose of the principal Act to pass by reason only of its reversion to the donor in his lifetime."

Held, affirming the decision of Sankey, J., that, whether the deeds of 8th December and 12th December, 1910, did or did not constitute one transaction, and a "disposition" within the meaning of s. 15 (1), the exemption provided by that section did not apply, as the annuitant did not enter into possession of the interest, and retain possession of the entire exclusion of the donor, but,

Held, reversing the decision of Sankey, J., that the annuity was granted for "full consideration in money or money's worth" within the meaning of s. 3, s.s. (1), of the Act of 1894, that the exemption granted by that sub-section applied, and therefore estate duty was not payable on the death of the annuitant in respect of the principal value of the benefit accruing or arising by the cesser of the rent charge.

Appeal from a decision of Sankey, J. (37 T.L.R. 99).—**ATTORNEY-GENERAL v. EARL OF SANDWICH, C.A.**, 612.

**4. Excess profits duty—Profits of trade—Notice of intention to retire from business—Realisation of assets—Whether carrying on business.**—In March, 1916, the appellants issued a circular to their customers announcing their intention to retire from business. They sold the business premises, but issued a further circular containing a list of goods for sale and under certain running contracts continued to purchase goods.

Held, that they were carrying on business and were liable to be charged excess profits duty.—**J. & R. O'KANE & Co. v. INLAND REVENUE COMMISSIONERS, H.L.**, 281.

**5. Income tax—Deed of separation—Covenant to pay such sum as would "after deduction" of income tax amount to £260 per annum—Validity—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40)—"All Schedules Rules," rule 23.**—A husband covenanted with his wife, in a deed of separation, to pay to her "such weekly sum as will, after deduction of income tax, amount to £260 per annum." The husband, relying on rule 23 of the "All Schedules Rules" to the Income Tax Act, 1918, deducted income tax before making the weekly payments.

Held, that the covenant was, in effect, an agreement to pay such a gross sum as would, after the deduction of income tax on that gross sum, leave a net sum of £260 per annum.—**BOOTH v. BOOTH, K.B.D.**, 251; 1922, 1 K.B. 66.

**6. Income tax—Exemption—Income not applicable to charitable purposes only—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), s. 37.**—The exemption from income tax conferred upon charities by s. 37 of the Income Tax Act, 1918, can only be claimed where the income of the charity is applicable solely for charitable purposes, and is, in fact, only applied for such purposes. Thus, where funds were settled by a trust deed which contained a clause directing that the income should be applied for purposes undoubtedly charitable, and also a clause under which the settlor could appoint the income to purposes not necessarily charitable, the exemption did not apply, even if all or most of the income had, in fact, been expended for charity.—**REX v. SPECIAL INCOME TAX COMMISSIONERS, C.A.**, 472.

**7. Income tax—Office or employment of profit—Clerk in employment of railway company—Liability of railway company to assessment.**—A clerk on the permanent staff of a railway company is not the holder of an office or employment of profit

of a public nature within Schedule E, and therefore the company is not liable to be assessed to income tax in respect of such office or employment.

Decision of Court of Appeal (1921, 2 K.B. 266) reversed.—**GREAT WESTERN RAILWAY v. BATER, H.L.**, 365.

**8. Income tax—Payment by husband—Husband's right to indemnity out of estate of wife—Income Tax Act, 1842 (5 & 6 Vict., c. 35), s. 45.**—A husband liable under the Income Tax Act, 1842, to pay his wife's income tax is not entitled, either at law or in equity, to claim an indemnity against his wife's estate in respect of payments for her income tax made by him in accordance with the statute.—**Re WARD, Peterson, J.**, 268; 1922, 1 Ch. 517.

**9. Income tax—Property assessed at £450 let for £750—Claim to deduct tax from rent on basis of larger amount—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), Schedule A, No. viii, r. 4 (1), All Schedules Rules 19.**—The plaintiff was original lessee of town property at an annual rental of £500. He sub-let to the defendant at a rental of £750; the property was occupied by two under-tenants and the assessments were £540 gross and £450 net. The action was brought for rent withheld by reason of the defendant claiming the right to deduct income tax at 6s. in the pound on the full £750.

Held, that by the proviso to Sched. A, viii, r. 4 (1) of the Income Tax Act, 1918, the defendant was only entitled to deduct the amount of income tax actually paid by him; All Schedules Rules No. 19, which apparently gave the defendant the right to deduct the larger amount, not being applicable to income tax levied on valuation and not on amount.—**ROSSDALE v. FRYER, C.A.**, 366.

**10. Income tax—Trade exercised within United Kingdom—Assessment of non-resident persons in name of branch—Finance (No. 2) Act, 1915, s. 31 (2).**—The Finance (No. 2) Act, 1915, s. 31 (2), does not alter the law so as to render a non-resident trader liable to income tax where his transactions did not amount to the exercise of a trade within the United Kingdom.—**GREENWOOD v. SMITH, H.L.**, 349; 1922, 1 A.C. 417.

**11. Vehicle used "solely for a certain purpose"—Licence—Motor lorry used to convey passengers—Finance Act, 1920 (10 & 11 Geo. 5, c. 18), s. 13 (1), Sched. II—Roads Act, 1920 (10 & 11 Geo. 5, c. 72), s. 8 (3).**—A licence was taken out under para. 6 of Schedule II to the Finance Act, 1920, in respect of a motor lorry belonging to a firm of haulage contractors and carriers. The lorry was hired on a certain occasion to convey, and did convey, a football team between two places. The contractors were summoned before justices and convicted of an offence under s. 8 (3) of the Roads Act, 1920.

Held that, as there were paragraphs in Schedule II to the Finance Act, 1920, specifically dealing with licences taken out solely for certain purposes, and as para. 6 did not deal with such licences, the conviction in the present case must be quashed, having regard to the fact that s. 8 (3) of the Roads Act, 1920, was only applicable to licences taken out "as for a vehicle to be used solely for a certain purpose."—**REX v. WOOD, K.B.D.**, 453; 1922, 1 K.B. 674.

#### RIVER POLLUTION:—

**Discharge from dyeworks—Prescription—Lost grant—Married woman—Prescription Act, 1832 (2 & 3 Wm. 4, c. 71), s. 7—Rivers Pollution Prevention Act, 1876 (39 & 40 Vict., c. 75), s. 4.**—In an action to restrain the pollution of a stream, the defendants claimed an easement by uninterrupted enjoyment as of right for upwards of twenty years.

Held, that the defence failed, since the enjoyment was not as of right, nor certain and uniform, and was contrary to the provisions of the Rivers Pollution Prevention Act, 1876.

Section 7 of the Prescription Act, 1832, does not apply to a *feme covert* married since 1882.—**HULLEY v. SILVERSPRINGS BLEACHING Co., Eve, J.**, 195.

#### SALE OF GOODS:—

**1. Contract—Warranty—Fitness of goods for purpose—Reliance on seller's skill—Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 14.**—If goods are ordered for a special purpose and the purpose is disclosed to the seller, so that in accepting the contract he undertakes to supply goods suitable for the purpose, such a contract shows that the buyer relies upon the seller's skill, and therefore there is an implied warranty.—**MANCHESTER LINERS v. REA, H.L.**, 421.

**2. Contract of sale by description—Delivery by instalments—Acceptance of part of the goods—Subsequent repudiation by buyer on wrong ground—Discovery of good ground after action brought—Severable breach—Damages—Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 31.**—The plaintiffs sold to the defendants goods of a certain description to be delivered by monthly instalments beginning in November and December, 1920. The first instalments were delivered under the contract, accepted, and paid

for by the defendants, who, in December, 1920, stopped delivery and refused to accept delivery of the balance on a wrong ground. They were not at that time aware of any good ground entitling them to repudiate the contract, nor did they suggest any. The plaintiffs did not tender any further instalments of the goods, but brought an action against the defendants claiming damages for wrongful repudiation of the contract. The defendants, after action brought, found that the goods already delivered and accepted by them were inferior to the contract description in some respects, and they proved that fact to the satisfaction of the learned judge at the trial, and claimed that they were entitled on that ground, to repudiate the whole contract.

Held, that the defect in the quality of the goods already delivered to, accepted, and paid for by the buyers was a severable breach of the plaintiff's contract to deliver goods of a certain description. That breach was not a repudiation of the whole contract, and the defendants were only entitled to damages under s. 31 of the Sale of Goods Act, 1893. They were not entitled to refuse to accept future deliveries of the goods before the instalments were tendered, on the plea that the plaintiffs could not have made good deliveries of the remaining instalments even if requested by the defendants to do so.

Decision of Greer, J. (38 T.L.R. 349) affirmed.—*TAYLOR v. OAKES & Co., C.A.*, 556.

3. *Goods delivered at purchaser's premises—Received and signed for by unauthorised person—Liability.*—If goods on delivery by the vendor at the house of the purchaser are accepted and misappropriated by an unauthorised person, the loss must fall on the purchaser, provided that the vendor has exercised proper care in handing over the goods to the person who apparently has authority to receive them.—*GALBRAITH & GRANT v. BLOCK, K.B.D.*, 596; 1922, 2 K.B. 155.

4. *Sale by description—Warranty—Fitness—Goods not lawfully saleable in importer's country—Merchantable quality—Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 14, s.s. (2).*—The plaintiffs, a firm in the Argentine, had for many years bought from the defendants, for importation into Argentina a tonic water of which the defendants were the manufacturers. Ultimately the Argentine Health Authorities found on analysis that the water contained salicylic acid, which could not legally be sold in Argentina, and they ordered the plaintiffs' stock there to be destroyed or sent out of the country. In an action for damages for breach of a condition alleged to be implied by s. 14 of the Sale of Goods Act, 1893, as to the fitness of the goods for importation.

Held, (1) that the buyers had not satisfied the court that they relied upon the sellers' skill or judgment to supply goods which could be sold according to law in the Argentine, and (2) that the term "merchantable quality" in s. 14, s.s. 2, of the Sale of Goods Act, 1893, had no reference to the state of the law of the country to which the goods were sent and therefore the action failed.

Decision of Bailhache, J., 37 T.L.R. 712, reversed.—*SUMNER PERMAN & Co. v. J. G. WEBB & Co., C.A.*, 17; 1922, 1 K.B. 55.

#### SEASHORE :—

*Removal of shingle from foreshore—Riparian owner—Possession—Injunction.*—The owner of the foreshore will be restrained from removing shingle which forms a natural barrier against the inroads of the sea even though the owner of the abutting land erects an artificial barrier behind the natural one formed by the foreshore itself.

*Attorney-General v. Tomline* (14 Ch. D. 58), followed.—*CANVEY ISLAND COMMISSIONERS v. PREEDY, Eve, J.*, 182; 1922, 1 Ch. 179.

#### SETTLED LAND :—

1. *"Annual rental of the settled land"—How ascertained—Settled Land Act, 1890 (53 & 54 Vict., c. 69), s. 13, s.s. (iv).*—In ascertaining the annual rental of an estate, property tax should not be deducted. Annual rent means the gross amount of rent reserved as payable by the tenant. In ascertaining the annual rental of the settled land for the purposes of s. 13, s.s. (iv), of the Settled Land Act, 1890, the property tax ought not to be deducted from the rents payable by the tenants, and income tax ought not to be deducted from the income derived from the capital moneys. A charge for estate duty is on the same footing as any other incumbrance.

*In re Sturmer Motors, Ltd.* (1913, 1 Ch. 16) applied.  
*In re Windham's Settled Estate* (1912, 2 Ch. 75) considered.  
—*Re FIFE, Russell, J.*, 452.

2. *Mansion house—Sale by tenant for life—Deposit money—Forfeiture—Expenditure by tenant for life—Costs of abortive sale—Capital or income—Settled Land Act, 1882, ss. 21, 31, 57.*—A tenant for life of settled land agreed to sell the mansion

house, and a deposit of £1,000 was paid to the auctioneers as stakeholders. The purchaser made default and the deposit became forfeited, and an action by the purchaser for rescission was dismissed. The tenant for life had provided out of his own moneys electric light and baths.

Held, that the deposit was capital money, that the tenant for life was not entitled to be recouped thereout the cost of his improvements, and that the costs of the abortive sale, of the purchaser's action, and of the summons must be paid out of the deposit.—*Re FOSTER'S SETTLED ESTATES, Eve, J.*, 299; 1922, 1 Ch. 348.

3. *Tenant for life and remaindermen—Lease by tenant for life—Payment on surrender of lease—Retainable by tenant for life—Settled Land Act, 1882 (45 & 46 Vict., c. 38), s. 13.*—A legal tenant for life by virtue of his position as legal reversioner is entitled to accept a surrender of a lease granted under the Settled Land Act, and to retain to his own use any sum paid to him in consideration of his accepting the surrender.

*Re Hunloke's Settled Estates* (1902, 1 Ch. 941), followed.—*Re PENRYN, Eve, J.*, 315; 1922, 1 Ch. 500.

#### SETTLEMENT :—

1. *Construction—Equitable estates in freeholds—Absence of words of limitation—Life estates—Intention of settlor—Executed trust.*—By a settlement, freeholds, subject to mortgages, as well as leaseholds, chattels and choses in action, were conveyed to trustees to uses in favour of the husband and wife for life, and after the death of the survivor of them, in trust for their children who attained the age of 21, and in default of children, in trust for the heirs of the husband. There were no words of limitation, but there were indications of intention that the children should take absolute interests in the realty.

Held, that a limitation in a trust perfected and declared by the settlor must bear the same construction as in the case of a legal estate executed, and that in the absence of the word "heirs," the children could only take life estates, though the apparent intention of the settlor to give them absolute interests was thereby defeated.—*Re BOSTOCK, C.A.*, 7; 1921, 2 Ch. 469.

2. *Revocation—Mistake of solicitor—Deed going beyond instructions—Cancellation of deed.*—A settlement will be rectified where it is satisfactorily proved that by a mistake of the draftsman it does not express the real intention of the parties. Applying this principle, a deed of revocation of a settlement was ordered to be cancelled, where, by a mistake of the solicitor, the deed went beyond the instructions and the intention of the parties.

*Walker v. Armstrong* (8 D.M. & G. 531) followed.—*Re WALTON'S SETTLEMENT, Eve, J.*, 666.

3. *Tenant for life—Remainderman—Capital or income—Injury to park by military—Compensation—Indemnity Act, 1920 (10 & 11 Geo. 5, c. 48) s. 2.*—An award of the War Compensation Court set up by the Indemnity Act, 1920, of an amount for compensation for damage done to a park by military occupation belongs to a tenant for life unimpeachable for waste.

*In re Barrington* (1886, 33 Ch. D. 523) applied.—*Re WILLIAMS' SETTLEMENT, Sargant, J.*, 648.

4. *Trust for sale of realty—Death of settlor entitled to contingent reversionary interest in proceeds of sale—Legal devise thereof—Re-conversion—Election—Really or personally.*—Where a settlor settled a freehold house in 1880 upon trust for sale, and in 1882 devised the same house in strict settlement, and died in 1886 before the house had been sold and while the other trusts of the settlement were still subsisting.

Held, that the will had not the effect of re-converting the notionally converted freehold back into land because at the date of his death the settlor was only contingently entitled to the proceeds of sale thereof.

*In re Aspinall* (1916, 1 Ch. 15) distinguished.—*Re STURT, Peterson, J.*, 236; 1922, 1 Ch. 416.

5. *War legislation—Charge thereunder—German national—Reversionary interests—Restraint on anticipation—Treaty of Peace Order, 1919, s. 1, clauses 16 and 17.*—Reversionary interests are included under the category "property, rights and interests" in the Treaty of Peace Order, 1919.

*In re Jackson's Will* (1879, 13 Ch. D. 189) applied.

Where a power of appointment was exercised after 10th January, 1920, the "right, property or interest" conferred by the exercise of that power was held to be a different "right property or interest" to that which belonged to the appointees before the exercise of the power, and accordingly was not charged by the Treaty of Peace Order, 1919.

*Lovett v. Lovett* (1898, 1 Ch. 82) applied.—*Re RUSH, Russell, J.*, 316; 1922, 1 Ch. 302.

## SHIPPING:—

1. *Bill of lading—C.I.F. contract—Transshipment—Through bill of lading—Tender of bill of lading from port of transshipment—Tender on "shipment"—Refusal of buyer to accept.*—A bill of lading issued at the port of transshipment thirteen days after the original shipment, and tendered by a vendor under a c.i.f. contract as a through bill of lading, is not a proper bill of lading which the buyer is bound to accept.

Decision of Court of Appeal affirmed.—*HANSSON v. HAMEL AND HORLEY, H.L., 421.*

2. *Charter-party—Agency—Commission note—"Purchase contained in the charter"—Independent sale during period of charter—Right to commission—Quantum meruit.*—A charter-party, which had been negotiated by a firm of steamship agents and brokers, contained the following clause as to purchase: "Charterers have option of purchasing steamer at any time between the date of signing charter and the completion of charter period for the sum of £125,000 . . . ." A commission note, representing the bargain with the brokers in respect of the charter-party, after providing for payment of 5 per cent. brokerage on hire as earned and paid under the charter, continued: "should the option of purchase contained in the charter be availed of, the brokerage on purchase to be 3½ per cent., payable on the final completion of the purchase." The charter ran for a short time, and a sale was then made for £85,000.

Held, that this sale was a fresh bargain, and not an exercise of "the option to purchase contained in the charter," referred to in the commission note. And that (1) the brokers, having regard to the decision in *L. French & Co., Ltd. v. Leeston Shipping Company, Ltd.* (1922, A.C., 451), were not entitled to 5 per cent. commission on the total hire, which would have been earned if the vessel had not been sold; (2) that they were not entitled to the 3½ per cent. commission, as this sale was the result of a bargain wholly distinct from that referred to in the commission note, and one in the negotiation for which they took no part; and (3) that they could not recover commission on a *quantum meruit*.—*HOWARD, HOULDER AND PARTNERS v. MANX ISLES CO., K.B.D., 682.*

3. *Charter-party—Arbitration—Public policy—Arbitration within certain time—Unseaworthiness.*—A charter-party provided that disputes should be referred to arbitration, and that claims should be made within three months, and if not so made should be deemed to be waived and barred. The respondents failed to put in a claim within the three months.

Held, that the claim was enforceable, and that the clause applied though the vessel was unseaworthy.—*ATLANTIC SHIPPING AND TRADING CO. v. DREYFUS, H.L., 437.*

4. *Charter-party—Breach—Injury to bottom of vessel—Refusal to accept re-delivery until vessel examined and repaired—Claim for payment of hire after tender of re-delivery.*—A vessel, after delivery to the charterers, suffered damage to her bottom through a breach of the charter-party. When re-delivery was tendered, the owners refused to accept the vessel until she had been examined and put in repair.

Held, that the date of re-delivery was the date on which the charterers had tendered re-delivery, and that the owners were not entitled to payment for hire during the time when the vessel was being repaired; and that if at the date of the tender of re-delivery the charterers had not fulfilled their obligation to re-deliver the vessel in good repair, the owners had their remedy in damages.—*WYE SHIPPING CO. v. COMPAGNIE DU CHEMIN DE FER PARIS-ORLEANS, K.B.D., 406; 1922, 1 K.B. 617.*

5. *Charter-party—Cargo to be delivered "alongside"—Unable to get "alongside"—Custom of port inconsistent with charter-party.*—The terms of a charter-party with regard to the discharge of a cargo of timber were inconsistent with a custom of the port of Great Yarmouth at which the discharge took place.

Held, that the custom being repugnant to the express terms of the contract could not be read into it.—*PALGRAVE, BROWN AND SONS v. THE TURID, H.L., 349; 1922, 1 A.C. 397.*

6. *Charter-party—Demurrage—Exceptions clause—General words—Enumeration of particulars—"Etcetera"—Ejusdem Generis rule.*—A charter-party provided that should the vessel be detained by causes over which the charterers had no control, "viz., quarantine, ice, hurricanes, blockade, clearing of the ship after the last cargo is taken over, etc.—no demurrage is to be charged." The vessel was detained by a dock strike, and the owners claimed demurrage.

Held, that as a strike came within the general description of causes over which the charterers had no control, it was covered by the word "etcetera," and the charterers were protected by the exceptions clause. The *ejusdem generis* rule does not apply to general words where they precede enumerated instances.

Decision of McCordie, J., reversed.—*AMBATELOS v. ANTON JUNGENS MARGARINE WORKS, C.A., 451.*

7. *Collision—Liability—Barge towed by tug—Barge in collision—Improper navigation of barge by persons on tug—Limitation of liability—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 503.*—A steam tug was towing several barges, when one of them belonging to the same owners as the tug collided with another barge and sank her. In an action for damages for collision the judge held that the collision was occasioned by the default of the master and crew of the tug, and condemned the defendants, the owners of the tug and of the barge, in damages and costs. The defendants subsequently brought an action to limit their liability under s. 503 of the Merchant Shipping Act, 1894, to £8 per ton of the tonnage of the tug, which was the smaller vessel of the two.

Held (reversing the decision of Hill, J., 90 L.J., p. 65), that the collision was due to the improper navigation of the towed barge, although controlled by the navigation of the tug, by the owners' servants, and that the owners of the barge were liable to £8 per ton on the tonnage of the barge, and that the limitation action would therefore not lie.—*THE GRAYGARTH, C.A., 182; 1922, P. 80.*

8. *Collision—Negligence of both ships—Contributory negligence.*—In an action of damage by collision between H.M.S. "Radstock" and the defendants' steamship "Volute," the President and the Court of Appeal held on the facts that the "Radstock" was alone to blame.

Held, by the House, reversing the Court of Appeal, that the "Volute" by omitting to give the appropriate signal, had contributed to the accident, and was partly to blame.—*COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH ADMIRAL v. "VOLUTE" (OWNERS), H.L., 156; 1922, 1 A.C. 129.*

9. *Collision—War risk or marine risk—Conveyance of military equipment in war area—Evacuation of base—"Consequences of warlike operations."*—A steamer proceeding under Government requisition with a cargo of ambulance wagons from Mudros to Alexandria on 1st January, 1916, at which date the evacuation of Gallipoli had just begun, collided with another vessel also on Government service off Alexandria. The collision took place at night, and both vessels, in obedience to naval orders, were steaming full speed ahead, without lights.

Held (affirming decision of Bailhache, J.), that the collision was not the result of an ordinary marine risk, but was a "consequence of warlike operations."—*PENINSULAR AND ORIENTAL BRANCH SERVICE v. COMMONWEALTH, C.A., 404; 1922, 1 K.B. 706.*

10. *Contract—Meaning of ship "expected ready to load"—Condition—Expectation must be based on reasonable grounds.*—A clause in a contract that a ship is "expected ready to load" at a certain date does not mean that the ship must be in such a position, whether that position be known to the parties or not, that she will according to all probable reckoning be able to load by the date indicated. It means that there must be a belief in the mind of the seller that she will be able to load at that date, and that belief must be an honest belief and must be founded upon reasonable grounds. Where such a representation was made, and there were no reasonable grounds for making it, and actually the ship was not ready to load until a long time afterwards, there was a breach of condition enabling the buyers to avoid the contract.—*SANDAY & CO. v. KEIGHLEY & CO., C.A., 437.*

11. *Detention by Admiralty—National emergency—Delay—Loss—Claim by charterers for compensation—Indemnity Act, 1920 (10 & 11 Geo. 5, c. 48), s. 2.*—A ship was hired under a time charter (not by demise) for the conveyance of coal from a home port to a foreign port. Owing to a national emergency, she was delayed at the home port for eighteen days by order of the Admiralty. The charterers were, consequently, obliged to pay £5,000 for the hire of the vessel during the period of delay, and they claimed compensation for this loss by Petition of Right.

Held, (1) that there was no implied contract between the charterers and the Crown, and (2) that there was no right to compensation under Defence of the Realm Regulation No. 39 BBB, or at common law, (3) that it might be that they would have some right to compensation on an application to the Defence of the Realm Losses Commission, under the Indemnity Act, 1920.—*FEDERATED COAL & SHIPPING CO. v. THE KING, K.B.D., 489; 1922, 2 K.B. 42.*

12. *Marine Insurance—General average—Supposed peril—Marine Insurance Act, 1906 (6 Edw. 7, c. 41), s. 66.*—The captain of a vessel, which was carrying a cargo of rosin, noticing what he erroneously assumed to be smoke (due, as he supposed, to fire) rising from the hold, caused steam to be turned into the hold in order to extinguish the fire, with the result that considerable damage was caused to the rosin.

Held, on the evidence that there was no fire: that the loss was not a general average loss, and that the words "for the purpose of avoiding or in connexion with the avoidance of a peril insured against" contained in s. 66 of the Marine Insurance Act, 1906, referred to losses collateral with the main process of avoiding a peril insured against, and not to losses incurred through a mistake with respect to a non-existent peril.—*WATSON & SONS v. FIREMAN'S FUND INSURANCE CO., K.B.D., 648.*

13. *Marine insurance—Re-insurance—Variation of original policy—Re-insurers not informed of variation—Liability.*—A marine insurance policy was issued by the plaintiffs to the owners of a vessel. Shortly afterwards the plaintiffs effected a policy of re-insurance with the defendants which was issued "subject to the same clauses and conditions as the original policy." A transaction subsequently took place between the plaintiffs and the owners whereby a reduction of the premium on the original policy was agreed upon. This transaction was endorsed on the head policy.

Held, that as the head policy had been altered without the assent or knowledge of the defendants, the original foundation of the re-insurance policy had ceased to exist and the defendants were relieved from liability to the plaintiffs.—*NORWICH UNION FIRE INSURANCE CO. v. COLONIAL MUTUAL FIRE INSURANCE CO., K.B.D., 720.*

14. *Salvage services—Admission of facts in statement of claim—Inferences therefrom denied—Further evidence tendered.*—Where the defendants in certain consolidated actions for salvage services admitted the facts alleged in the various Statements of Claim, but denied the inferences drawn from those facts and denied that their ship was ever in real danger.

Held, that the plaintiffs were entitled to put in the defendants' log and a graph based on her soundings, but they were not allowed to call further evidence as to displacement of their tugs for the purpose of showing that some did more effective service than others.

"*The Butehire*" (1909, P. 170), distinguished.—*THE "WOODARRA" v. ADMIRALTY, P.D., 183.*

#### SHOP:—

*Open during prohibited hours—Amusement caterers—Competitive games—Stalls exhibiting prizes of chocolates and cigarettes—Shops Act, 1912 (2 Geo. 5, c. 3), s. 19 (1)—Shops (Early Closing) Act, 1920 (10 & 11 Geo. 5, c. 58), Schedule, Part I, 1(A), 4.*—A and B occupied pitches on the beach at a seaside resort. They provided games there, for which entrance fees were charged and for which prizes of chocolates and cigarettes were given. The prizes were exhibited on stalls.

Held, that the business carried on at the pitches was not that of a shop, and that A and B were not infringing the provisions of the Shops (Early Closing) Act, 1920, by not observing the regulations as to closing contained in that statute.—*DENNIS v. HUTCHINSON, K.B.D., 316; 1922, 1 K.B. 693.*

See also Local Government.

#### SOLICITOR:—

1. *Evidence—Letters written "without prejudice"—Admissibility—Action against solicitor by administrator to recover alleged trust moneys—Admissions by Defendant's client made in his absence.*—A client gave to her solicitor a sum of money, and retained his services in case any action should be brought against her by the administrator of an estate. The solicitor wrote certain letters to the solicitor of the administrator "without prejudice," as a result of which letters an action was brought against him by the administrator for the recovery of money given to him by his client.

Held, that neither the letters, nor the admissions made by the client to a daughter of the administrator in the absence of the defendant, were admissible as evidence against the defendant.—*LA ROCHE v. ARMSTRONG, K.B.D. 351; 1922, 1 K.B. 485.*

2. *Lien for costs—Delivery up of papers upon undertaking—Partnership action.*—The principle upon which the court will compel a former solicitor to hand over his client's papers to his new solicitor upon an undertaking protecting his lien is that a solicitor, although able to assert his lien to the full extent against his own client, is not permitted to assert it so as to embarrass third parties.

Accordingly, in a partnership action where a receiver had been appointed, and creditors might be embarrassed if the former solicitor insisted on his lien to its full extent, the court made an order compelling the former solicitor to deliver up the papers upon having the usual undertaking protecting his lien.—*Boden v. Hensby (1892, 1 Ch. 101) applied.*—*DESSAU v. PETERS RUSHTON & CO., Sargant, J., 14; 1922, 1 Ch. 1.*

3. *Striking off the rolls—Misconduct—Alteration of deed after execution—Evasion of stamp duty—Small sum—Lapse of time.*—A solicitor in Trinidad altered, some fifteen years ago,

the date of a deed after its execution with the alleged intention of evading the payment of 15s. stamp duty. He was struck off the Rolls last year of the Supreme Court of Trinidad.

Held, dismissing the appeal, that the appellant had not received harder measure than he deserved.—*RE LLES, a solicitor, P.C. 297.*

See also Costs.

SPECIFIC PERFORMANCE:—See Vendor and Purchaser.

#### TRADE MARK:—

*Registration—Distinctiveness—Combination of device, word and letter—Trade Marks Act, 1905 (5 Edw. 7, c. 15), s. 9, s-s. (5) and (19).*—The expression "any other distinctive mark" in s-s. (5) of s. 9 of the Trade Marks Act, 1905, means a distinctive mark other than the mark designated in the preceding subsections 1-4.

A mark consisting of a combination of a device, a word and a letter was held to be registrable subject to disclaimer of the right to the exclusive use of the device, the word or the letter.—*RE APPLICATION OF THE DIAMOND T MOTOR CAR COMPANY, Lawrence, J., 8; 1921, 2 Ch. 583.*

#### TRADE NAME:—

*Similarity of companies' names—Confusion—Undertaking by defendants to distinguish—No injunction—Liberty to apply.*—At the trial of an action to restrain the defendants from carrying on business under a name likely to lead to the belief that the defendant company was the same as the plaintiff company, on the defendants undertaking to clearly distinguish their business from the plaintiffs' the Court made no order except that the plaintiffs should have liberty to apply and the defendants should pay the costs of the action down to and including the judgment.—*BRIGHT v. BRIGHT, Eve, J., 681.*

#### TRADE UNION:—

1. *Expulsion of member—Sharing in employers' co-partnership scheme—Rules of union—Prohibition against working on a co-partnership system—Premium bonus system—Injunction—Trade Union Act, 1871 (34 & 35 Vict., c. 31), s. 4.*—Members of two trade unions, having been threatened with expulsion by reason of their participation, as a voluntary act and not as a term of employment, in a profit-sharing scheme established by their employers, commenced actions against their unions to restrain their expulsion.

Held, that their participation in the scheme was not prohibited by the rules of the unions and that the injunctions must be granted.—*AMALGAMATED SOCIETY OF CARPENTERS v. BRAITHWAITE, H.L., 707.*

2. *One trade union member of another—Termination of membership—Action to restrain—Agreement "between one trade union and another"—Jurisdiction—Trade Union Act, 1871 (34 & 35 Vict., c. 31), s. 4 (4)—Trade Union Act, 1913 (2 & 3 Geo. 5, c. 30), s. 3 (5).*—A trade union of a national character and calling itself a federation was composed of a number of local unions or societies, which in its rules were described as "the districts." It expelled one such local union from membership of the federation for disobedience to its resolutions.

Held, in an action to restrain the expulsion, that to do so would be in effect to enforce an agreement for membership "made between one trade union and another" within the meaning of s. 4 (4) of the Trade Union Act, 1871. The contention raised that one union could not be a member of another, and that therefore the agreement for membership of the federation was between it and the individual members of the local union, was unsound, because the rules of the federation always referred to the district unions as the members; there was nothing in the Trade Union Acts of 1871 or 1876 to say that such membership was impossible; and its possibility was distinctly recognised by the Trade Union Act of 1913.—*MCCLOSKEY v. COLE, C.A., 5; 1922, 1 Ch. 7.*

3. *Trade dispute—Interference with labour—Deprivation of use of tools—Conspiracy and Protection of Property Act, 1875 (38 & 39 Vict., c. 86), s. 7—Trade Disputes Act, 1906 (6 Edw. 7, c. 47), s. 3.*—Where in the course of a trade dispute miners were prevented from descending a pit and working, by the intervention of a checkweighman, a trade union official, who instructed the employer's lampman not to issue to the men the safety lamps, without which they could not work.

Held, that there was no wrongful deprivation of tools or hindering from work within the meaning of s. 7 of the Conspiracy and Protection of Property Act, 1875, that that statute made nothing actionable that was not previously actionable, and that being so the acts complained of only amounted to such an interference with employment as came within s. 3 of the Trade Disputes Act, 1906, and therefore was not actionable.—*FOWLER v. KIBBLE, C.A., 267; 1922, 1 Ch. 487.*

**TRUST:—See Settlement, Will.**  
**VENDOR AND PURCHASER:—**

**1. Contract—Claim—Specific performance or rescission—Failure of defendant to defend—Right of immediate rescission—Practice.**—Where a plaintiff claimed specific performance or rescission, and alleged in his statement of claim that the defendant had neglected and refused to complete, and also alleged a notice requiring the defendant to complete within a specified time and the defendant withdrew his defence before trial.

Held, that it was not necessary that time should be made of the essence of the contract to entitle the plaintiff to rescission, and if the defendant persistently refused to perform it, the plaintiff could take rescission forthwith and need not take a decree for specific performance first.

*Hall v. Burnell* (1911, 2 Ch. 551) applied.  
*Stone v. Smith* (1887, 35 Ch. D. 188) distinguished.—*FARRANT v. OLIVER, Sargent, J.*, 283.

**2. Housing grant or subsidy—Part of the purchase money—Increase of grant—Whether purchaser entitled to increase—Housing (Additional Powers) Act, 1919 (9 & 10 Geo. 5, c. 99), s. 1.**—Where a vendor receives a Government grant on the completion of the building of a house, the purchaser of the house is entitled to the whole of the amount received by the vendor under the Housing (Additional Powers) Act, 1919, even though the amount of such grant has been increased since the date of the contract.—*COLBORNE v. SMITH, Eve, J.*, 283.

**3. Lease—Option to tenant to purchase from landlord—"All the estate interest and title"—Property subject to mortgage.**—A lease contained an option to the tenants to purchase "all the estate interest and title" of the landlord for a certain price. The tenants exercised the option, and subsequently discovered that the premises were subject to a mortgage anterior to the date of the lease.

Held, that the tenants could not compel the landlord to redeem the mortgage and let them have the property freed therefrom for that price, but that the exercise of the option created a good and binding contract to buy the equity of redemption for that price.

The view expressed in *Williams on Vendor and Purchaser*, 2nd Ed., at p. 646, adopted.—*FOWLER v. WILLIS, Sargent, J.*, 576.

**4. Leaseholds—Landlord's consent—Disrepair—Repairs executed to obtain consent—Cost of repairs—Specific performance.**—A purchaser agreed to buy leasehold premises in their then state of repair, and subject to the landlord's consent being obtained. The vendors, in order to get the landlord's consent put the premises in repair, and in an action for specific performance they claimed that the costs of the repairs ought to be borne by the purchaser.

Held, that the vendors were entitled to specific performance on that footing.—*LOCKHARTS v. ROSEN & Co., Astbury, J.*, 350; 1922, 1 Ch. 433.

**5. Mutual mistake—Parol evidence—Rectification of conveyance—Trustee of legal estate—Judicature Act, 1873 (36 & 37 Vict., c. 66), s. 24, s.s. (7).**—Since the Judicature Act, 1873, a plaintiff can sue for specific performance of a contract with a parol variation, and the court can rectify a deed although it conforms strictly to an antecedent written agreement, provided the evidence proves a common mistake in reducing the agreement to writing and an embodiment of that mistake in the subsequent conveyance.

*Olley v. Fisher* (1886, 34 Ch. D. 367), followed.  
*May v. Platt* (1900, 1 Ch. 616) not followed.—*CRADDOCK BROS. v. HUNT, Lawrence, J.*, 694.

**6. Payment other than deposit on account of purchase money—Stipulation against forfeiture—Default by purchasers—Acceptance of repudiation by vendors—Claim by vendors to retain money as security for loss on re-sale.**—By a written contract, the defendants agreed to sell Devonshire House to certain purchasers for £1,050,000. The purchasers in question assigned their rights under the contract to the plaintiff. A clause in the contract stated that the purchasers having paid to the vendors the sum of £50,000 as a deposit and in part payment of the purchase money, should pay the sum of £100,000 further on account of the purchase price, within fourteen days, and provided for the payment of the balance of the purchase money within a stated time. By another clause it was provided that if the purchasers failed to comply with the stipulations thereof "their deposit of £50,000, but not the said sum of £100,000, shall be forfeited, and the vendors may re-sell the property in such manner as they think fit, and any deficiency arising on the re-sale and all expenses attending the same or any attempted re-sale shall be paid by the purchasers to the vendors as liquidated damages." The deposit of £50,000 was duly paid and also the £100,000 agreed to be paid "further on account

of the purchase price." The purchasers made default, and the vendors forfeited the £50,000 deposit and claimed to retain the £100,000 as security for loss on re-sale.

Held, that the £100,000, having been treated in the contract as a payment on account of the purchase price, and the contract having expressly provided that it was not to be forfeited in case of default by the purchasers, the vendors could not retain that sum as security against loss on re-sale.

Decision of Lush, J. (1921, 3 K.B. 297) affirmed.—*HARRISON v. HOLLAND, HANNEN & CUBITTS, C.A.*, 217; 1922, 1 K.B. 211.

**7. Receiver appointed of businesses—Sale as going concern—Loss in carrying on business—Liability of purchaser to indemnify vendor.**—Where completion of a contract for sale of a business as a going concern is delayed through the fault of the purchaser, and the vendor notifies the purchaser that the business is being carried on at a loss and that he will hold the purchaser accountable therefor, the vendor is entitled to specific performance and also to an indemnity in respect of expenses properly incurred in carrying on and preserving the business as a going concern.

*Shaw v. Foster* (1872, L.R. 5 H.L. 321) applied.  
*Dakin v. Cope* (1827, 2 Russ. 120) distinguished.—*GOLDEN BREAD CO. v. HEMMINGS, Sargent, J.*, 124; 1922, 1 Ch. 162.

**8. Right of common—Appurtenant—Profit à prendre—Sale of land—Right to pasture sheep on adjoining hill—Conveyancing Act, 1881 (44 & 45 Vict., c. 41), s. 6.**—Section 6 of the Conveyancing Act, 1881, provides that a conveyance of land shall be deemed to include and shall by virtue of this Act operate to convey with the land (*inter alia*) "all privileges, easements, rights and advantages whatsoever appertaining or reputed to appertain to the land, or any part thereof, or at the time of the conveyance demised, occupied or enjoyed with, or reputed or known as part or parcel of or appurtenant to the land or any part thereof."

Held, that the general words of the section are wide enough to include a profit à prendre such as the right to pasture sheep on a sheep walk, which is appurtenant to and enjoyed by the occupants of the land conveyed.—*WHITE v. WILLIAMS, C.A.*, 405; 1922, 1 K.B. 727.

**WAR:—**

**1. Defence of the realm—Requisition of business premises—Compensation—Basis of assessment—Substituted premises—Cost of removal and re-installation—Direct loss—Appeal on point of law—Indemnity Act, 1920 (10 & 11 Geo. 5, c. 48), s. 2.**—In 1918 the Government requisitioned the claimants' business premises for the Air Force, and the claimants were compelled to seek other accommodation for their business. They purchased other premises, and adapted and equipped them for their business requirements. In order to complete them as soon as possible, so as to cause as little interruption as possible to their business, they spent large sums in extra wages and overtime. Subsequently, their original premises were restored to them and the question arose as to the basis of compensation. The Indemnity Act, 1920, gave a right of appeal from the decision of the War Compensation Court to the Court of Appeal on a point of law. The claimants appealed to the Court of Appeal against an award of the War Compensation Court on the ground that the War Compensation Court were erroneous in deciding that certain items of actual loss did not constitute direct loss or damage by reason of interference with the business of the claimants within the meaning of s. 2, s.s. (1) (b) of the Indemnity Act, 1920.

Held, (1) that the point raised by the claimants was a point of law giving them a right of appeal to the Court of Appeal, and (2) that the claimants were entitled to have the compensation assessed on a basis which included the cost of reinstatement, and they were therefore entitled to the amount of their actual loss.—*A AND B TAXIS, LTD. v. SECRETARY OF STATE FOR AIR, C.A.*, 633.

**2. Enemy company—Claim by English manager—Controller—Position of—Trading with the Enemy Amendment Act, 1916 (5 & 6 Geo. 5, c. 105), s. 1, s.s. (1).**—The controller appointed under the Trading with the Enemy Amendment Act, 1916, does not represent or stand in the shoes of the enemy person, firm or company. He is an official appointed to get in, not the assets of the person, firm or company, but the assets of a particular business of the person, firm or company, and his duty is to discharge, not the debts of the person, firm or company, but the debts of that particular business. It is a novel statutory conception, and treats the assets and debts of the particular business apart from the assets of the owner of the business. He cannot accordingly allow a set-off which should be claimed against the company.

As to the peculiar attributes of such controllers see *In re Dieckmann* (1918, 1 Ch. 331).—*Re VULCAN COAL CO., Russell, J.*, 423; 1922, 2 Ch. 60.

3. *Food Controller—Ultra vires—Importing milk from one area to another—Licence—Charge per gallon—Levying tax—Defence of the Realm Regulation, 2v.*—The Food Controller prohibited persons dealing in milk from purchasing milk exported from one area to another, except under a licence, and he imposed as a condition of the grant of a licence a charge of twopence per gallon payable to him by the purchaser.

Held, that the charge imposed on the purchaser was a tax which the Controller had no power to levy.—*ATTORNEY-GENERAL v. WILTS UNITED DAIRIES, LTD., H.L., 630.*

4. *German nationals—Charge on property by peace treaty—Dual nationality—Construction of Treaty of Peace Order, 1919.*—Where a British national obtained, during the war between Great Britain and Germany, a certificate of German nationality in accordance with German municipal law, although the British Courts would not recognise such a change of allegiance during war between Great Britain and Germany (see *R. v. Lynch*, 1903, 1 K.B. 444), yet by British law such person has a dual nationality and is a German national for the purposes of the Treaty of Peace between Great Britain and Germany, and is liable to all the disabilities of a German national thereunder.—*Re CHAMBERLAIN'S SETTLEMENT, Lawrence, J., 3; 1921, 2 Ch. 533.*

5. *Regulations—Duration of war—Interpretation of statutes—Apparent inconsistency—Jurisdiction—Defence of the Realm (Consolidation) Act, 1914 (5 Geo. 5, c. 8), s. 1 (1)—War Emergency Laws (Continuance) Act, 1920 (10 Geo. 5, c. 5), s. 2 (1)—Defence of the Realm Regulations, Nos. 48, 48A.—Section 2 (1) of the War Emergency Laws (Continuance) Act, 1920, provided that certain regulations issued under the provisions of s. 1 (1) of the Defence of the Realm (Consolidation) Act, 1914, should continue in force until the 31st August, 1920. In the preamble to the statute of 1920 it was recited that "whereas the Defence of the Realm Regulations will expire at the termination of the present war, and it is expedient that certain of those regulations should continue in force thereafter . . ."*

Held, that these two statutory provisions were not inconsistent, it being clear from the preamble to the later statute, that the true meaning of the provision contained in that statute was that the regulations should continue in force in any event until the 31st August, 1920, and that, if the war had not been terminated by that date, they should then continue in force until the date of its termination.

Held, therefore, that convictions (under certain of the regulations above referred to), which were alleged to be *ultra vires* on the ground that the regulations were not in force at the time of the acts in respect of which the charges were made, must stand.—*INKPIN v. ROLL, K.B.D., 473.*

See also *Allen*.

#### WILL:—

1. *Construction—Annuities—"Free of income tax"—Repayment of income tax how applicable between annuitants and residuary legatees.*—Where amounts of income tax payable on annuities bequeathed free of income tax were repaid by the Special Commissioners it was held that proportions of the amounts so repaid or recovered equivalent to the proportions that the annuities bore to the whole incomes of the annuitants should be retained by the trustees as part of the testator's residuary estate, and that the balance should be paid to the annuitants.—*Re PERRIT, Romer, J., 667.*

2. *Annuity—Gift of residue—Estate insufficient to pay annuity—Power to resort to capital—Annuity not paid in full—Claim for arrears after death of annuitant—"Express trust"—Statute of Limitations—Supreme Court of Judicature Act, 1873 (36 & 37 Vict., c. 66), s. 25 (2)—Real Property Limitation Act, 1874 (37 & 38 Vict., c. 57), s. 10.*—A testator, who died in 1898, directed his trustees to pay to his wife an annuity of £500 a year for her life, and, subject thereto, to hold his residuary estate upon trust for his children. The annuity was charged upon the corpus of the estate as well as upon the income. The testator had one child, who became entitled to the fund subject to the annuity. The widow died in 1908, and at her death there were arrears of annuity due to her of £3,280 14s. 4d., the income of the estate having been insufficient to pay her in full, and no claim having been made upon the corpus. Part of the freehold property was sold in 1921, and the sole trustee of the will took out a summons to determine whether the estate of the widow was entitled to any sum in respect of the arrears. The Vice-Chancellor of the County Palatine decided that all claims were barred by reason of the Real Property Limitation Act, 1874, s. 10.

Held, on appeal, that the trustee held the estate upon an express trust for the annuitant within the meaning of s. 25 (2) of the Supreme Court of Judicature Act, 1873, and that the effect of this section was not avoided by s. 10 of the Real Property Limitation Act, 1874. The representative of the

annuitant, having limited her claim to six years' arrears prior to the death of the annuitant, was entitled to recover that amount out of the estate.—*Re JORDISON, C.A., 282; 1922, 1 Ch. 440.*

3. *Annuity to alien enemy—Forfeiture—Event—"Voluntarily or involuntarily alienate or encumber"—Charge created by the Peace Treaty.*—Accumulations of an annuity left to an alien enemy by a testator who died on 22nd August, 1914, from that date to the date of the Peace Treaty, go to the Austrian administrator.

*In re Levinstein* (1921, 2 Ch. 251).

Where the will provided for forfeiture if the annuitant voluntarily or involuntarily alienated or encumbered.

Held, that the charge created by the Peace Treaty was not such an alienation or encumbrance.

Held, accordingly, that the annuity was still payable to the Austrian administrator.—*Re BIEDERMANN, Asbury, J., 107; 1922, 1 Ch. 31.*

4. *Appointment—General power—Special power as to part of fund—Residuary gift—Contrary intention—Wills Act, 1837 (1 Vict., c. 26), s. 27.*—A residuary gift operates under s. 27 of the Wills Act, 1837, as an exercise of a general power of appointment and a contrary intention is not indicated by the existence of a special power over part of the appointed fund.

Dictum of Page Wood, V.C., in *Scriven v. Sandom* (2 J. & H. 745) distinguished.—*Re STOKES, Eve, J., 523.*

5. *Construction—Advancement—Interest to be deducted from income of share—Principal to be deducted from share—Bankruptcy of legatee in lifetime of testator—Dividend received by testator in the bankruptcy.*—Where the intention of a testator to benefit his son and daughter equally was clear and a provision was contained in the will that an advance to the son and interest thereon should be brought into hotchpot, the hotchpot clause was still operative although the indebtedness of the son had been released by operation of law by his bankruptcy and the testator's proof therein. The release must only be held to operate to the extent of the amount received in dividend.

*Auster v. Powell* (1 De G. J. & S. 99) applied.—*Re AINSWORTH, Lawrence, J., 107; 1922, 1 Ch. 22.*

6. *Construction—Contingent gift to class—Settlement of shares when vested—Intermediate income before vesting—Accumulations—Accretion to capital of share.*—Under a will a class of children became entitled upon attaining the age of twenty-five, or in the case of females, marriage to vested interests in a residuary trust fund but such shares were directed to be held by the trustees upon the usual settlement trusts.

Held, that upon a share vesting in possession accumulations of income of such share became part of the capital of the settled funds and the tenant for life was only entitled to the income thereof.—*Re MELLOR'S TRUSTS, C.A., 249; 1922, 1 Ch. 312.*

7. *Construction—Estate duty—Fund for payment of all duties to which estate "shall be liable"—Tenant for life.*—The provision by a testator of a special fund for payment of all duties to which the estate shall be liable *prima facie* only contemplates duties presently payable at the date of the testator's death, and not at any subsequent time.—*Re FENWICK Sargant, J., 631.*

8. *Construction—Gift inter vivos—Legacy—Adoption—Satisfaction—Particular purpose—Obligation other than parental.*—A gift by will to create a fund for the endowment of three named ladies during life or spinsterhood is a gift for a particular purpose (see *In re Smythies* (1903, 1 Ch. 259)) and a subsequent gift *inter vivos* of War bonds for the same purpose satisfies that gift to the extent of the price paid for the bonds.

*In re Corbett* (1903, 2 Ch. 326) applied.

Legacies of £500 and £500 War Loan are *ejusdem generis*.

*Pym v. Lockyer* (1841, 5 My. & Cr. 29) followed.

Where the bequest was not expressed to be made in fulfilment of a moral obligation, that ground of satisfaction by the gift *inter vivos* would not apply.

*In re Pollock* (1885, 28 Ch. D. 552) followed.—*Re JUPP, Russell, J., 539.*

9. *Construction—Gift of settled fund to infants—Condition of prohibition of infants' residence abroad—Condition precedent or subsequent—Gift over on non-compliance—Validity.*—Where there was a gift in a will of a settled fund to infants on condition that they did not reside abroad, with forfeiture for non-compliance therewith,

Held, (1) that such a condition was a condition subsequent; (2) that it did not fail for uncertainty; (3) that it was contrary to public policy.

*Quære*, whether such a condition is impossible to be complied with by infants.

Held, accordingly, that the condition was void.

*In re Bowditch's Settlement* (1916, 2 Ch. 304) distinguished.—*Re BOULTER, Sargant, J., 14; 1922, 1 Ch. 75.*

10. *Construction*—"Money"—Gift of "Money I have and am entitled to now and at any future time"—Printed form filled up by testatrix—Property expressible in terms of currency.—A testatrix by her will made by her by filling up a printed form without legal advice, after certain specific bequests, gave "all the money I have and am entitled to and at any future time" to certain persons. There was no express residuary gift in the will.

Held, that by "money" the testatrix intended to include all investments, securities and other property expressible in terms of currency, which passed under the gift, but not all other residuary personal estate.

Decision of Peterson J. (1922, 1 Ch. 569) varied.—*Re TAYLOR, C.A.*, 693.

11. *Construction*—"My war bonds"—Exchequer bonds converted—Finance Act, 1916 (6 & 7 Geo. 5, c. 24), s. 58—War Loan Act, 1916 (6 & 7 Geo. 5, c. 67), s. 2—War Loan Act, 1919 (9 & 10 Geo. 5, c. 37), s. 1, s-s. (2).—A gift of "my war bonds" passes all securities for money raised by the Government for the purposes of the war, and also securities exchanged under statutes for converting such loans for the purposes of the war into longer time loans.—*Re IONIDES, Lawrence, J.*, 315.

12. *Construction*—Residuary gift—For charitable purposes—Such objects as executor may select—"At his own disposal"—Trust for next-of-kin.—A testator, who by her will had left her residue undisposed of, by a codicil made the following disposition: "The residue of my property I desire applied for charitable purposes as I may in writing direct or to be retained by my executor for such objects as he may in his discretion select and to be at his own disposal." The testatrix left no directions as to the charities she might wish to benefit.

Held (affirming decision of Eve, J., ante, p. 288), that there was no good charitable trust, and that the executor took the residue as trustee for the next-of-kin.

In *re Howell* (1915, 1 Ch. 241) distinguished.—*Re CHAPMAN, C.A.*, 522; 1922, 1 Ch. 278.

13. *Construction*—Trust for conversion—Future trust for sale—Failure of purposes of conversion—Uncertainty whether conversion necessary.—If a future trust for sale in a will never arises by reason of the total failure of the purposes for which it was directed, no conversion is effected. This would still be so even though both after the testator's death and after the death of his heir-at-law it was still uncertain whether conversion would be necessary for the purposes of the will. If the ultimate failure was only partial there would be no conversion.—*Re HOPKINSON, Sargent, J.*, 18; 1922, 1 Ch. 65.

14. *Construction*—Wrong power of appointment exercised—"Contrary intention"—Gift of residue—Wills Act, 1837 (7 Will. 4 & 1 Vict., c. 26), s. 27.—Where an appointor under a power devised all the residue of her estate to X, and recited one power which, in the events which happened, did not arise and purported to exercise it, but did not recite another power which, in the events which happened did arise, or purport to exercise it.

Held, that there was no contrary intention within the meaning of s. 27 of the Wills Act, 1837, and that accordingly there was an effectual appointment by the will.—*Re ANDREWS, Russell, J.*, 284.

15. *Legacy*—Appropriation of shares—Preference shares—Conversion into ordinary shares—Cash payment—Special bonus—Capital or income.—The trustees of a will appropriated preference shares to answer a settled legacy. Subsequently the company converted the shares into ordinary shares, with the result that the trustees received 20s. for each share and also twenty-six shares in another company which had purchased part of their surplus assets.

Held, that the 20s. per share constituted capital, but the twenty-six shares must be treated as a bonus, and belonged to the tenant for life.—*Re TEDLIE, Eve, J.*, 250.

16. *Legacy*—Codicil—Further legacy and reference to previous legacy—Inaccurate reference—Larger amount—Gift by implication.—Where a testator by a codicil to his will said that he added a further £8,000 to the £3,000 already bequeathed by his will, and in fact he had only bequeathed £2,000 by his will. Held, that A took a total legacy of £11,000.

*Jordan v. Fortescue* (1847, 10 Beav. 259) followed.—*Morgan v. Middlemiss* (1866, 35 Beav. 278) not followed.—*Re YATES, Sargent, J.*, 523.

17. *Legacy*—Specific or general—Particular stocks described in a schedule.—The *prima facie* presumption that a legacy of stocks is general is rebutted in circumstances where a testatrix left to a legatee "the stocks, shares and securities set out in the schedule" and these consisted of a large number of different kinds of investments of small amounts and of special character which exactly corresponded with the investments held by the testatrix. Such a bequest was held to be specific.—*Re HAWKINS, Lawrence, J.*, 612.

18. *War legislation*—Bequest to alien enemy of a protected life interest—Charge for enemy debts—Trading with the Enemy (Amendment) Act, 1914 (5 Geo. 5, c. 12), ss. 2 and 4—Treaty of Peace Order, 1919.—Section 2 of the Trading with the Enemy (Amendment) Act, 1914, deals with moneys "payable by way of dividends," and is not appropriate to cause a forfeiture of a protected life interest in an alien enemy under a settlement by vesting it in the Custodian, and accordingly accumulations of income in accordance with the Act in the hands of the trustees became on 10th January, 1920, subject to the charge created by the Versailles Treaty under the Treaty of Peace Order, 1919.—*Re HALLENSTEIN, Sargent, J.*, 299; 1922, 1 Ch. 355.

See also Apportionment, Charity, Probate.

## WORKMEN'S COMPENSATION:—

1. *Arbitration*—Appeal—Findings of county court judge doubled—Power of Court of Appeal to order re-hearing or new trial—Ordinary rules governing appeals from arbitration not applicable—County court judge and deputy—Re-hearing by judge in case where award made by deputy—Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58), Sched. II (4)—R.S.C. Ord. 58, Rr. 4, 20 (D).—Notwithstanding that the county court judge who hears a claim for compensation under the Workmen's Compensation Act, 1906, is an arbitrator, the ordinary rules as to appeals from an arbitration do not apply. The combined effect of r. (4) of Sched. 2 of the Act, and rr. 4 and 20 (D) of ord. 58 is that an appeal lies from such county court judge to the Court of Appeal, and upon that appeal the court can make an order for the county court judge to re-hear the matter, or such other order as it may think fit.

A county court judge sitting as arbitrator under the Act is sitting in his official capacity as judge of the court, and not as an individual. Therefore where a claim has been heard and an award made by a deputy judge, such award will represent the decision of the judge himself, who, in the event of a re-hearing being ordered, will be competent to re-hear and adjudicate upon the matter.—*HUNTER v. SIMNER, C.A.*, 487.

2. *Award*—Application for new trial—County court practice—Pleading—Surprise—Fresh evidence.—The applicant was badly injured on 6th November, 1920, while riding upon the respondent's motor tractor, his hand being caught in the machinery. He brought a claim for compensation in Selby (Yorkshire) County Court, to which the respondent put in a defence, stating that at the time of the accident the applicant was not in his employment. At the hearing, the applicant was asked in cross-examination whether he had not been dismissed from the employment three days before the accident, and the respondent and others gave evidence that that was so, and that the applicant was only upon the tractor because he had asked to be allowed to ride home upon it. An award having been made in favour of the respondent, the applicant subsequently applied to the same court for a new trial on the grounds (1) that the respondent's defence had been understood by him to mean that he had never been in the respondent's employment, and that the question as to his having been dismissed had taken him completely by surprise, (2) that he had two witnesses to call who could prove that he was still in the employment on 6th November, 1920. The county court judge held that the applicant had been surprised; in that the defence should have stated that the respondent was not in the employment, or, alternatively that if he had been in the employment, he had been dismissed. In view of that fact, and of the statement that two fresh witnesses would be called, he made an order for a new trial.

Held, on appeal, that the respondent's pleading was sufficient, and that the applicant could not raise the plea of surprise simply because the matter had been presented to him in a way he had not anticipated. Further, to support the plea of surprise, it must also be shown that the surprise had led to a miscarriage of justice, and the applicant should have furnished substantial proof not merely that there was fresh evidence, but that it was of so weighty and serious a character as to justify the order for a re-trial.—*GUEST v. IBBOTSON, C.A.*, 298.

3. *Course of employment*—Breach of statutory regulation—Disobedience of workman—Explosives in Coal Mines Order, 1913.—A miner was injured by the delayed explosion of a shot which had apparently missed fire, and to which the miner went back too soon, in contravention of the Explosives in Coal Mines Order, 1913.

Held, that the accident did not arise in the course of the employment as the miner was going out of the sphere of his employment by the breach of the regulation.—*COSTELLO v. ADDIE & SONS COLLIERIES, H.L.*, 248; 1922, 1 A.C. 164.

4. *Course of Employment*—Seaman under influence of drink—Return to ship—Fatal fall from ladder—Question of fact—Arbitrator's note—Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58).—A seaman who had been ashore for his own purposes

returned to his ship in a state of drunkenness. The only access to the vessel was by a ladder, to the foot of which he was assisted by two members of the crew. He went up the ladder without help, but in stepping from the ladder to the rail of the bulwark he let go his grip, fell back into the water and was drowned. The arbitrator found that the accident did not arise out of the employment. The Court of Session recalled the determination of the arbitrator.

Held (Lord Finlay dissenting), that to allow a question of fact to be taken out of the hands of the arbitrator would be to falsify the object of the statute.

Decision of the Court of Session reversed.—WILLIAM THOMSON AND CO. v. ANDERSON OR SCRIMGEOUR, *H.L.*, 169.

5. *Failure of action—Compensation assessed—Certificate—Right of appeal—“Determined in such action”*—*Workmen's Compensation Act, 1906* (6 & 7 *Edw. 7, c. 58*), s. 1 (2) (b), (4).—The widow of a workman employed in a coal mine brought an action under the Fatal Accidents Acts for damages for the death of her husband, as having been caused by a breach of a statutory regulation under the Coal Mines Act, 1911. The action failed, and counsel for the plaintiff then asked for an assessment and award of compensation under the Workmen's Compensation Act, 1906, s. 1 (4), and that it should be made without prejudice to the plaintiff's right of appeal in the action. Branson, J., made an award of full compensation, less the costs of the unsuccessful action, and was understood to make it “without prejudice” to the plaintiff's right of appeal, although these words did not appear in the order. On appeal,

Held, that the decision of the learned judge dismissing the action was right on the facts, and that the award of compensation put an end to the plaintiff's right of appeal in the action. The expression “determined in such action,” means “determined” by the court of first instance in which action is tried, and there is no jurisdiction to give a certificate of an award of compensation “without prejudice” to an appeal.

*Neale v. Electric & Ordnance Accessories Co. Ltd.* (1906, 2 K.B. 558) applied.

*Isaacson v. New Grand (Clapham Junction) Ltd.* (1903, 1 K.B. 539) over-ruled.—HARRISON v. WYTHEMOOR COLLIERY CO., *C.A.*, 632.

6. *Industrial disease—Compensation paid under certificate of suspension—Subsequent certificate of disablement—Date of disablement certified as prior to suspension—Proceedings for compensation as from earlier date—Election—“Happening of the accident”*—*Workmen's Compensation Act, 1906* (6 *Edw. 7, c. 58*), s. 8 (1) (i) (ii).—The benefits open to a workman under the Workmen's Compensation Act, 1906, s. 8 (1) (i) (where he has obtained a certificate of disablement) or s. 8 (1) (ii) (where he has obtained a certificate of suspension) are not alternative in the sense that a claim under one precludes a subsequent

claim under the other. So when a workman received compensation under a certificate of suspension as from a certain date, and subsequently received a certificate of disablement fixing the date of disablement at a period before the suspension, the fact that he had been compensated under the earlier certificate did not prevent his taking proceedings under the later certificate to recover compensation as from the earlier date.—*ROLLINGS v. THOMPSON, C.A.*, 107; 1922, 1 K.B. 320.

7. *Infant workman—Award increased by war addition—Weekly payment greater than wages previously earned*—*Workmen's Compensation Act, 1906* (6 *Edw. 7, c. 58*), *Sched. 1, para. 1, proviso (b), para. 16*—*Workmen's Compensation (War Addition) Acts, 1917* (7 & 8 *Geo. 5, c. 42*), s. 1, 1919 (9 & 10 *Geo. 5, c. 83*), s. 1.—*Schedule 1, para. 1, proviso (b)*, of the Workmen's Compensation Act, 1906, provides that the weekly payment during total incapacity of a workman who was a minor at the date of the injury, and whose average weekly earnings were less than twenty shillings, shall be one hundred per cent. of the average weekly earnings, “but the weekly payment shall in no case exceed ten shillings.” In construing this proviso, the effect of the Workmen's Compensation (War Addition) Acts of 1917 and 1919, which add seventy-five per cent. to the weekly payments, must be ignored—even where a workman earning 11s. 10d. a week, and so entitled to an award of 10s., by the war addition of 7s. 6d., becomes entitled to 17s. 6d. a week, a greater sum than he earned before the injury.—*SMALLBONE v. FAWCETT PRESTON & CO., C.A.*, 693.

8. *Permanent injury—Claim to declaration of liability—Time for application—“Odd lot”*—*No existing incapacity—Possibility of future incapacity*—*Workmen's Compensation Act, 1906* (5 & 6 *Edw. 7, c. 58*), *Sched. 1* (3).—A number of workmen in a colliery who had all met with accidents from the immediate effects of which they had long recovered, leaving some slight permanent disability, applied, in some cases years after the accident, for a declaration of liability on the ground that they might at some future time be unable to earn as much as they were then earning, which was in all cases more than before the accident happened. The county court judge granted the declaration in each case on the ground that the injury had left the workman in the position of an “odd lot” in the labour market.

Held, that the grounds of his decisions were entirely wrong, as he had misunderstood the definition of an “odd lot” by Fletcher Moulton, L.J., in *Cardiff Corporation v. Hall* (1911, 1 K.B. 1020), and the expression was totally inapplicable to any of the cases before him. The only proper ground for making a declaration of liability, which can be applied for at any time, is that there is evidence of a probability of recurring incapacity. In two of the cases there was no such evidence, but in the remaining three there was some slight evidence and the declarations therefore could stand.

*Cardiff Corporation v. Hall* (*supra*) explained.—*FOSTER v. WHARNCIFFE COLLIERY CO., C.A.*, 594.

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